

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 3871 of 2019

S. K. Daga S/o Late Deep Chand Daga, Aged About 75 Years R/o Civil Lines, Raipur, Chhattisgarh.

---- Petitioner(s)

Versus

- 1.** State of Chhattisgarh (Through Its Secretary, Urban Development) DKS Bhawan, Raipur, Chhattisgarh.
- 2.** Chhattisgarh Housing Board (Through The Commissioner) Shankar Nagar, Raipur, Chhattisgarh.
- 3.** Land Acquisition Officer and SDO (R) Raipur, Chhattisgarh.
- 4.** Collector Raipur, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Kishore Bhaduri and Shri Pankaj Singh, Advocates.
For State	:	Shri Ayaz Naved, Deputy Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05.11.2019

- 1.** Challenge in the present Writ Petition is to the impugned order dated 22.06.2018 (Annexure P/1) passed by the Sub Divisional Officer (Revenue), Raipur. The relief sought for is also for declaring that the possession of the suit property belonging to the petitioner taken over by the respondent No.2 to be illegal and unauthorized.
- 2.** Brief facts of the case is that, the disputed property in the instant case is one situated in Khasra Nos. 153/5 and 153/7 at Village Daganiya, Raipur. The area in which the said property situates went under acquisition way back in the year, 1988-89 and a final award under Section 11 of the Land Acquisition Act was passed on 10.05.1990. The aforesaid property situating in Khasra Nos. 153/5 and 153/7 was originally owned by one Jhumuk Lal. The entire possession of the property was taken over by the respondents on 31.07.1991. The petitioner became a registered owner of the said property only in the year 2003 i.e. much after the final award

under Section 11 of the Land Acquisition Act was passed and the possession also was taken over in the year, 1991. The petitioner, in between, had filed a writ petition i.e. WP No.2385 of 2006 aggrieved of not being paid appropriate compensation for the land acquired. The said writ petition finally got disposed of 02.11.2017. For ready reference it would be relevant to quote the order dated 02.11.2017 which reads as under :

- “(1) Learned counsel appearing for the petitioner would submit that the Chhattisgarh Housing Board has requested the Collector, Raipur by order dated 21.11.2006 for determination of compensation, but the same has not been done by the said authority till now.
- (2) Learned counsel appearing for the respective respondents would support the impugned order.
- (3) I have heard learned counsel for the parties.
- (4) Be that as it may, the Collector, Raipur is directed to do needful as requested by the Chhattisgarh Housing Board by order dated 21.11.2006 and to proceed further in accordance with law, expeditiously preferably within a period of six months from the date of receipt of certified copy of this order.
- (5) With the aforesaid observation, the writ petition stands finally disposed of. No order as to costs.”

3. Subsequent to the disposal of the said writ petition, the SDO (Revenue), Raipur has passed the impugned order Annexure P/1 dated 22.06.2018 determining the compensation for the said land which was said to be acquired. It is this order which is under challenge in the present writ petition.
4. Firstly this court finds that the writ petition has been filed at a belated stage for the reason that the order of the SDO quantifying the compensation was passed way back on 22.06.2018 and the present writ petition has been filed after almost about 1 and ½ years time. Secondly, while disposing of the earlier writ petition at the first instance on 02.11.2017, the direction was only to decide the compensation part as expeditiously as possible preferably within a period of six months.
5. What cannot be lost sight of is the fact that the original award of acquisition proceedings were passed on 10.05.1990, the possession of

the said land as per the petitioner himself was taken over way back on 31.07.1991. When the final award was passed and subsequently when the possession was taken, the petitioner was not the registered owner of the said land. The petitioner became the owner only after about 13 years from the date the final award was passed or from the possession was taken. Once when the property has been acquired in the year 1990, the possession has also taken in 1991 and at that point of time the original owner being Jhumuk Lal and from the award itself it clearly reflects that the said Jhumuk Lal had already made a request as would be clear from the award under Section 11 of the Land Acquisition Act that he be paid compensation in respect of the said property is sufficient to infer that the compensation that the petitioner, if at all is entitled for, would be the compensation that was payable at the time of the acquisition of the property or when the possession of the said property was taken over by the respondents.

6. Merely because the petitioner has subsequently got a sale deed executed in his favour would not entitle him for compensation at a rate prevailing as on date. This court does not find any strong case made out by the petitioner in this regard at this stage.
7. Accordingly, the petition being devoid of merit deserves to be and is rejected.

Sd/-
(P. Sam Koshy)
Judge