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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 1659 of 2020

1. Rukhman Bhagat S/o Kinuram Bhagat Aged About 48 Years Caste - Uraon (Scheduled Tribe), R/o Village Banjikhoh, Tahsil and Police Station Tamnar, District Raigarh, Chhattisgarh.
2. Kamleshwar Bhagat S/o Rukhman Bhagat Aged About 26 Years Caste - Uraon (Scheduled Tribe), R/o Village Banjikhoh, Tahsil and Police Station Tamnar, District Raigarh, Chhattisgarh.
3. Lal Kunwar Bhagat D/o Rukhman Bhagat Aged About 23 Years Caste - Uraon (Scheduled Tribe), R/o Village Banjikhoh, Tahsil and Police Station Tamnar, District Raigarh, Chhattisgarh.
4. Vimla Bhagat D/o Rukhman Bhagat Aged About 19 Years Caste - Uraon (Scheduled Tribe), R/o Village Banjikhoh, Tahsil and Police Station Tamnar, District Raigarh, Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Department of Revenue and Disaster Management, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur, Chhattisgarh.
2. Collector Raigarh, District Raigarh, Chhattisgarh.
3. Sub Divisional Officer (Revenue) Sub Division Gharghoda, District Raigarh, Chhattisgarh.
4. Tahsildar Tamnar, District Raigarh, Chhattisgarh.
5. District Mining Officer Raigarh, District Raigarh, Chhattisgarh.
6. M/s Hindalco Industries Limited Gare Pelma, IV/4 Block Banjikhoh, Tahsil Tamnar, District Raigarh, Chhattisgarh.

---Respondents

For Petitioners	:	Shri Kishore Narayan, Advocate.
For State	:	Shri Jitendra Pali, Deputy Advocate General.
For Respondent 6	:	Shri B.D. Guru, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05.08.2020

1. The petitioner in the present writ petition has challenged the order passed by the Tehsildar, Tamnar, District Raigarh, dated 19.06.2020 whereby the Tehsildar has ordered the petitioners to vacate the premises occupied by them. The Tehsildar also has given details of the compensation which the respondent No.6 has deposited with the Tehsildar against the property belonging to the petitioners which is being given to the respondent No.6 by the State Govt. for mining purpose.

2. The primary contention of the petitioners was that the respondent authorities have not taken any decision in the manner as is required under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation Resettlement Act, 2013 (in short, the Act, 2013).
3. According to the petitioners, there is a specific procedure prescribed under the Act, 2013 which has not been followed by the respondent authorities. It is the further contention of the petitioners that the respondents have also not passed any specific award so far as the land belonging to the petitioners are concerned and unless there is a specific award passed, the petitioners would not be in a position to challenge the same.
4. On the previous date of hearing this court had directed the respondent's counsel to provide the details of the "Surface Right" as also the compensation which has been calculated and paid to the petitioners and also to ascertain whether the land over which the petitioners are residing also falls within the area specified in the order granting surface right to the private respondents.
5. Learned counsel appearing for the respondent No.6 today have filed a response showing that the surface right in the instant case was initially granted on 23.04.2007 to one M/s Jaiswal NECO. Subsequently, vide order dated 23.03.2015 the land was vested in favour of the respondent No.6 as ordered by the respondent company. Thereafter on 03.12.2015 working permission was also granted in favour of the respondent No.6. The respondent No.6 further referred to the Annexures enclosed to their response showing the details of the quantification of the compensation payable to the petitioners. So far as the claim for employment of the petitioners is concerned, learned counsel for the respondent No.6 submits

that as per Schedule II of the Act, 2013, one petitioner has been provided employment out of the four petitioners and the balance of the petitioners have been paid Rs.5,00,000/- each as lump sum compensation in lieu of employment. So far as providing an alternative accommodation is concerned, he submits that they have already, as per the order of the Tehsildar, issued a letter Annexure R-6/10 directing the Tehsildar to intimate the petitioners for finding a suitable rental accommodation and for which the respondent No.6 is ready to deposit one year's rent amount in advance.

6. Learned counsel for the petitioners during the course of the arguments accepted the fact that as per Schedule-II of the Act, 2013 they have been offered financial assistance for construction of house to the tune of Rs.1,50,000/- per petitioner which according to him is too meagre an amount. They ought to have been first offered a house and in the event if the house was not acceptable to the petitioners only then should the option of payment of compensation come into play. Likewise, again it was submitted by the petitioners that even the payment of lump sum compensation to the petitioners was a second option. The first option was to provide employment and only in the event if the employment offered was not acceptable to the petitioners, would the need of payment of lump sum compensation come into play.
7. Taking into consideration the submissions put forth on either side, the undisputed facts as it stands is that the land over which the petitioners are residing admittedly is a government land. The petitioners do not have any title rights over the said land. Since it is a government land, the question of acquisition of the said land does not arise.

- 8.** In view of the fact that the acquisition of the said property is not required, the only element which needs consideration is whether the petitioners have been paid reasonable compensation in terms of the Act, 2013 or not? Whether the petitioners have been provided with the benefits of rehabilitation and resettlement again as provided under the Act, 2013. Section 64 of the Act, 2013 clearly envisages that any person who is not satisfied with the award passed, may prefer an objection to the District Collector raising his option so far as the amount of compensation calculated and also as regards the non consideration of the rehabilitation and resettlement benefits as provided under the Act, 2013. In the instant case the impugned order of the Tehsildar determining the compensation was passed on 19.06.2020 and the present writ petition was filed on 27.07.2020.
- 9.** In view of the specific provision provided under Section 64 of the Act, 2013, in the opinion of this court it would be more appropriate permitting the petitioners to approach the District Collector assailing the order passed by the Tehsildar, if they are not satisfied of the compensation so awarded.
- 10.** It is pertinent at this juncture that from the documents submitted by the respondent No.6 in their response it reflects that the compensation calculated by them comes to approximately Rs.34,00,000/- whereas, in the order of the Tehsildar dated 19.06.2020 the compensation enumerated is about Rs.29,00,000/-.
- 11.** The counsel for the respondent No.6 fairly concedes that the respondent No.6 is ready to deposit the balance of the difference amount so as to make the total compensation payable to the petitioners at Rs.34,00,000/- and the said difference amount shall be deposited within a week.

- 12.** Let the respondent No.6 accordingly deposit the said difference amount within a week from today. The petitioners are directed to receive the compensation deposited with the Tehsildar reserving the right to challenge the same before the Collector for enhancement of the compensation and also for claiming the other benefits as provided under the Act, 2013.
- 13.** At this juncture it is necessary to mention that in the event if the petitioners approach the Collector under Section 64 of the Act, 2013, the same be decided at the earliest.
- 14.** The counsel for the respondent No.6 at this juncture submits that the respondent No.6 would be providing rental accommodation to each of the petitioners. Subject to the respondent No.6 providing the rental accommodation, it is expected that the respondent shall also grant the petitioners 7 days time for shifting themselves to the accommodation to be offered by the respondent No.6 before initiating any co-ercive steps.
- 15.** With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder