

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 1938 of 2020

Laxmi Kaushik S/o Sadhram Kaushik Aged About 62 Years R/o Village-
Pendari, Tehsil- Takhatpur, District- Bilaspur, Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Its Secretary, Water Resources Department, Sector-19, Shivnath Bhawan, Atal Nagar, Raipur, Chhattisgarh.
2. Executive Engineer Water Resources Division, Kota- Bilaspur, District- Bilaspur, Chhattisgarh.
3. Sub- Divisional Officer (Revenue) Cum Land Acquisition Officer Kota- Bilaspur, District- Bilaspur, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Faisal Akhtar, Advocate.
For Respondent-State	:	Shri Sidharth Dubey, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15.09.2020

1. The grievance of the petitioner primarily seems to be an inadvertent erroneous calculation of compensation for the land of the petitioner which has been acquired for the construction of Arpa-Bhaisajhar Canal.
2. The facts in brief is that, the petitioner is the owner of certain piece of land situated in Khasra No.143/1, 144/1, 143/2 and 144/2 consisting of 1.46 Acres of land. For the construction of said Canal, the respondent authorities had acquired 0.80 Acres of land out of aforementioned total 1.46 Acres. However, when the award was passed and compensation was quantified the petitioner was paid only for 0.43 Acres of land and the petitioner was denied or deprived of the compensation of land measuring 0.37 Acres which was also acquired by the respondent authorities.
3. According to the petitioner, the compensation of 0.43 Acres of land was paid on account of erroneous entry in the revenue records showing the measurement of the property as 0.43 Acres instead of 0.83 Acres. The

petitioner had approached the Tehsildar in this respect for necessary correction and the Tehsildar Sakari, District Bilaspur, vide his order dated 20.03.2018 had passed an order that it was 0.80 Acres of land belonging to the petitioner which was acquired which inadvertently was being reflected as 0.43 Acres in the course of acquisition proceeding.

4. The petitioner further submits that he had also immediately on 21.05.2018 approached the respondent No.3 highlighting this erroneous entry in the revenue records and less compensation paid to the petitioner. He had further made repeated representations in this regard. However, till date necessary corrections to the award has not been made which has led to the filing of the present writ petition where the petitioner seeks for a limited relief of an appropriate direction to the respondents for payment of compensation for the balance of 0.37 Acres of land.
5. The State counsel at this juncture submits that under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, the Act, 2013) there are two methods by which the compensation could had been enhanced. First is under Section 33 of the Act, 2013 where the correction to the award could had been made and the second is under Section 64 of the Act, 2013, where the petitioner could have approached before the competent authority raising grievances in respect of his less compensation that he has received.
6. However, according to the State counsel, both these provisions have a specific period prescribed within which the petitioner could have approached the authorities concerned for ventilating his grievances. At the same time, the counsel for the State fairly concedes that if the petitioner's 0.80 Acres of land has been acquired, there is no reason why he should

not be paid compensation for the entire land, of course, subject to verification of facts from the records.

7. The counsel for the State also raised a contention that only on the basis of the entries in the revenue records, title over the said property cannot be established.
8. Given the facts and circumstances and the contentions that has been put forth on either side, admittedly the petitioner had a land of around 1.46 Acres, of which, as per the petitioner, around 0.80 Acres of land has been acquired, but he has been paid compensation only for 0.43 Acres. The reason for payment of compensation for only 0.43 Acres was on account of entries made in the revenue records as it stood then. It appears that the correction made by the Tehsildar vide order dated 20.03.2018 has not been properly considered by the authorities. The petitioner infact had made a representation to the respondent No.3, the Land Acquisition Officer himself as early as on 21.05.2018 for proper correction being made enabling the petitioner to receive compensation for the whole of 0.80 Acres of land. There does not seem to be any further action taken by the respondent No.3. Nor has the respondents guided the petitioner in respect of the remedies available to him if the respondent No.3 was not in a position to redress the grievance of the petitioner.
9. If we look into the correspondence made on 21.05.2018 by the petitioner it would clearly reveal that he had approached the competent authority within a reasonable period as prescribed under the Act, 2013. If we take into consideration the provisions of Section 33 of the Act, 2013, it clearly reflects that the said provision has been made empowering the respondents for correction of the award. The petitioner referred to notification dated 13.05.2014 whereby the State Govt. has also

empowered the SDO, the Land Acquisition Officer, with the powers which were otherwise conferred upon the Collector under the Act, 2013.

10. Similarly, if we take into consideration the provisions of Section 64 of the Act, 2013, it again provides for a mechanism for any person who is not satisfied with the award and compensation paid by moving an application before the Collector who in turn shall take appropriate decision considering the objections raised in that application, be in respect of the measuring of the land or in respect of the amount of compensation to be paid. The Collector has already been empowered to condone an application which has been filed beyond a period of six weeks up till further period of one year beyond the period of six weeks and entertain the application.

11. Taking into consideration the notification dated 13.05.2014 and also taking note of the representation that the petitioner had made to the SDO on 21.05.2018, in addition the order of correction of the revenue records by the Tehsildar vide his order dated 20.03.2018, this court is of the opinion that the authorities concerned, particularly the respondent No.3 ought to have taken a decision on Annexure P/6 filed before him as early as in 2018 itself. There cannot be a situation where the petitioner should be rendered remedy-less having approached the authority promptly for proper calculation of the compensation to be made. One should not ignore the aspect of the economic disadvantage position that the petitioner shall be put to if he is not paid compensation for the actual property which has been acquired.

12. The very purpose and object of the enactment of the Act, 2013 was to ensure that the persons whose land have been acquired receives just and fair compensation in addition to rehabilitation and resettlement, if any.

- 13.** Keeping the object and aim of the Act, 2013 and taking a holistic approach, this court is of the opinion that the case of the petitioner needs consideration to the extent of verifying whether it is 0.80 Acres of land of the petitioner which has been acquired or is it 0.43 Acres as referred to in the award.
- 14.** Under the circumstances, this writ petition at this juncture stands disposed of directing the respondent No.3 to take an appropriate decision on Annexure P/6 dated 21.05.2018 submitted before the respondent No.3 at the earliest in accordance with law preferably within a period of 90 days from the date of receipt of copy of this order.
- 15.** It is further made clear that if for any reason the SDO feels that he is not competent to decide the said application, the respondent No.3 is directed to refer the matter to the concerned District Collector to take a decision on Annexure P/6 keeping in view the provisions of Section 33 as well as Section 64 of the Act, 2013. Both the respondents No.3 & 6 are expected to take a decision as early as possible preferably within the period specified above.

Sd/-
(P. Sam Koshy)
Judge