

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2455 of 2020**

Umesh Kumar Agrawal S/o R.N. Agrawal Aged About 44 Years (Owner Of Land Bearing Khasra No. 703/8k, Village Barpali), Presently R/o At Post Barpali, Via Bhaisma Tahsil Kartala District Korba Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Through The Secretary, Ministry Of Road Transport And Highway, New Delhi, 110001.
2. National Highway Authority Of India Through The Chairman, G-5 And 6, Sector 10, Dwarika, New Delhi.
3. Chief Engineer Public Works Department National Highway Division Raipur District Raipur Chhattisgarh.
4. Sub Divisional Officer (Revenue) Cum Competent Authority National Highway, Korba, District Korba Chhattisgarh.
5. Collector Korba, District Korba Chhattisgarh.
6. Project Director National Highway Authority Of India, Project Implementation Unit Bilaspur, District Bilaspur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Sushobhit Singh, Advocate
For Respondents No.1, 2, 3 & 6	:	Mr. Ramakant Mishra, Asst. S.G.
For State	:	Mr. Anand Verma, Deputy G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28/10/2020

1. The petitioner in the present case has filed the present writ petition dissatisfied with the compensation awarded by the respondents for the land belonging to the petitioner which was acquired for the construction of the National Highway.
2. According to the petitioner, he owns a land at khasra No. 703/8 at village Barpali, Tehsil Kartala, District Korba. Of the said portion of

land, the respondents have acquired 280 sq.mtr. of land for construction and widening of the National Highway. According to the petitioner, the award in the instant case was passed on 11.01.2019 and while quantifying the compensation the multiplier has not properly been applied and that the quantification ought to have been done by applying the multiplier of 2 as per the notification dated 02.05.2019. The counsel for the petitioner submits that the matter has already been decided by this Court in the case of “Mahadev Gond v. Union of India & Ors.” in WPC No. 1961/2018, decided on 18.07.2018, whereby the Division Bench of this Court has held that the multiplier of 2 shall be applicable for acquisition of land in the rural areas for the purpose of construction of the National Highway. According to the petitioner, since the matter has already been adjudicated upon by the High Court, the present writ petition be also disposed of in similar terms.

3. The learned Asstt. S.G. at this juncture submits that the judgment which is being relied upon by the petitioner has already been subjected to challenge before the Hon'ble Supreme Court and the Hon'ble Supreme Court has already stayed the effect and operation of the said judgment and has also stayed the contempt proceedings initiated in those matters. As such the same cannot be given effect to for the purpose of deciding the claim of the petitioner.
4. The learned State counsel on the other hand submits that the petitioner has been paid compensation in accordance with the

provisions of **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013**. If the petitioner was aggrieved by the said award passed under the said Act, the petitioner ought to have availed the remedy provided under the Act itself for enhancement of the compensation.

5. Having heard the contentions put forth on either side and on perusal of record, particularly taking note of the submissions made by the learned Asstt. S.G. that the judgment of the Division Bench of this Court being subjected to challenge before the Hon'ble Supreme Court and the Hon'ble Supreme Court having stayed the same, this Court is of the opinion that the same cannot be used at this juncture for the disposal of the present writ petition. Moreover, what needs to be considered is that admittedly an award has been passed on 11.01.2019. The present writ petition has been filed only in October, 2020 i.e. after a period of about 22 months. Another aspect which needs consideration is that an Act of 2013 is a complete code in itself and provides for the procedure and mechanism for determining the compensation and it also has a mechanism for redressal of the grievance if a person is not satisfied with the compensation so awarded by the Land Acquisition Officer.
6. Section 64 of the Act of 2013 provides for the person interested or the person not satisfied with the award to approach to the Collector by moving an appropriate application and the Collector in turn on due scrutiny of the same would make a reference to the authority so

notified. The provision also provides for payment of interest for any delayed payment or any less payment which has been made by the Land Acquisition Officer. Once when the Act itself provides for a remedy to a person, who is not satisfied with the award, there is no reason why the person should not avail the said remedy before the competent authority at an appropriate time and thereafter approached the High Court for invoking the writ jurisdiction for determining the proper compensation under the Act of 2013. Even if there is a judgment passed by the Division Bench of this Court and if that is considered to be the basis, even then the petitioner ought to have approach the authority under Section 64 relying upon the judgment of the Division Bench of this Court for determining the actual compensation, if the issue stands settled, which in the instant case does not seem to stands settled for the reason that the Asstt. S.G. himself has submitted that the matter has been subjected to challenge before the Hon'ble Supreme Court and there is also an interim order in favour of the government granted by the Hon'ble Supreme Court.

7. In addition the National Highways Act also has a remedy of challenging the Award or the quantam of compensation
8. In view of the same, this Court is of the opinion that the present writ petition can be disposed of at this juncture reserving the right of the petitioner to approach before the District Collector under Section 64 of the Act of 2013 or before the Arbitrator under Sec.3G (5) along

with an application for condonation of delay explaining the reason for not filing the same within the stipulated period and the Collector or the Arbitrator as the case may be, shall in turn take a decision in accordance with law at the earliest preferably within a period of 90 days from the date the petitioner moves an application.

9. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved