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HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 157 of 2016

Dr. Hari Singh S/o Late Bharat Singh Chandel, Aged About 62 Years R/o Village Taraud, Police Station & Post Akaltara, Tahsil Akaltara, District Janjgir Champa, Chhattisgarh.....Plaintiff, Chhattisgarh

---- Appellant

Versus

1. General Manger, District Industries & Trade Centre Limited Champa, District Janjgir Champa, Chhattisgarh, Chhattisgarh
2. State Of Chhattisgarh Through Collector, Janjgir, District Janjgir Champa, Chhattisgarh.....Defendants, District : Janjgir-Champa, Chhattisgarh

---- Respondents

FAM No. 154 of 2016

Smt. Kalpana Singh W/o. Dr. Hari Singh, Aged About 49 Years R/o- Village Taraud, Police Station And Post- Akaltara, Tahsil- Akaltara, District- Janjgir-Champa, Chhattisgarh,.....Plaintiff, Chhattisgarh

---- Appellant

Versus

1. General Manger, District Industries And Trade Centre Limited Champa, District- Janjgir-Champa, Chhattisgarh, Chhattisgarh
2. State Of Chhattisgarh, Through Collector, Janjgir, District- Janjgir-Champa, Chhattisgarh,.....Defendants, District : Janjgir-Champa, Chhattisgarh

---- Respondent

FAM No. 155 of 2016

Nirvikar Singh S/o Ramashankar Singh, Aged About 45 Years R/o Village Taraud, Police Station And Post Akaltara, Tahsil Akaltara, District Janjgir Champa, Chhattisgarh.....Plaintiff, Chhattisgarh

---- Appellant

Versus

1. General Manger, District Industries And Trade Centre Limited Champa, District Janjgir Champa, Chhattisgarh, Chhattisgarh

2. State Of Chhattisgarh Through Collector, Janjgir, District Janjgir Champa, Chhattisgarh.....Defendants, District : Janjgir-Champa, Chhattisgarh

---- Respondents

FAM No. 156 of 2016

Ramashankar Singh S/o Late Bharat Singh, Aged About 70 Years R/o Village Taraud, Police Station And Post Akaltara, Tahsil Akaltara, District Janjgir Champa, Chhattisgarh....Plaintiff , Chhattisgarh

---- Appellant

Versus

1. General Manger, District Industries And Trade Centre Limited Champa, District Janjgir Champa, Chhattisgarh, Chhattisgarh
2. State Of Chhattisgarh Through Collector, Janjgir, District Janjgir Champa, Chhattisgarh.....Defendants, District : Janjgir-Champa, Chhattisgarh

---- Respondents

For Appellants	:	Shri Manoj Paranjpe with Shri Prasoon Agrawal, Advocates
For Respondent-State	:	Shri Alok Bakshi, Addl. Advocate General with Shri Sudeep Verma, Dy. Govt. Advocate

D.B. :Hon'ble Mr. Justice Manindra Mohan Shrivastava & Hon'ble Mrs. Justice Vimla Singh Kapoor

Judgment

17/01/2020

Per Manindra Mohan Shrivastava, J.

1. These four appeals are being disposed off by common order as all these appeals arise out of order passed in analogues proceeding relating to acquisition of land in village- Taraud, Tahsil- Akaltara, District- Janjgir – Champa, under the same land acquisition proceedings based on similar fact situation, location and situation of the land and common grounds.

2. Appellant- Ramashankar Singh, Nirvikar Singh, Kalpana Singh and Hari Singh were admittedly holders of land situated in different khasra numbers of Village Taraud, P.H. No. 14, Tahsil - Akaltara, District- Janjgir Champa. The details of the land and area of each of the appellant is conveniently described as below:-

Sr. No.	Name of the Appellants	Area
1.	Ramashankar Singh	0.20 acres
2.	Nirvikar Singh	0.40 acres
3.	Kalpana Singh	2.00 acres
4.	Hari Singh	2.33 acres

3. Land acquisition proceedings for acquisition of land for industrial purpose were initiated by the Land Acquisition Officer- Janjgir- Champa vide land acquisition case No. No.5/A-82/2009-10 involving the land of the appellants and other persons. The land acquisition proceeding culminated in Award dated 23.12.2010. Under the Award, Ramashankar Singh was awarded Rs.11,91,352/-; Nirvikar Singh was awarded Rs.23,82,704/-; Kalpana Singh was awarded Rs.16,00,000/-; and Hari Singh was awarded Rs.1,38,79,253/-. The respective appellants were, however, not satisfied with the award as Ramashankar Singh claimed Rs.13,32,711/-, Nirvikar Singh claimed Rs.26,65,422/-, Kalpana Singh claimed Rs.17,95,924/- and Hari Singh claimed Rs.1,55,26,085/-.

On reference being made under Section 18 of the Land Acquisition Act, 1894, the learned Court below registered separate case under reference in respect of four appellants and allowed them to lead oral and documentary evidence in support of their claim. Vide order passed in aforesaid appeals in all the cases, the Court below found that the compensation awarded to each of the appellant was just and proper. Aggrieved by the orders passed in the respective cases, the appellants preferred aforesaid appeals which are heard analogously.

4. Submission of learned counsel for the appellants appearing in all the cases is mainly on the aspect that though cogent and clinching evidence was led that the land are yielding double crop and irrigated land, learned Court below ignoring these evidence has recorded that the land are un-irrigated "*dorsa-2, padti*" land. The second limb of argument is that the appellant in each of the cases led evidence to prove that adjacent land were sold at higher rates, whereas, the compensation in case of the appellants has been awarded at lower rates. Thirdly, it has been submitted that the nature of the land for the purpose for which the land were being used, the owners/ appellants were entitled to be compensated by treating their lands as diverted land. Last argument is that as per the Market Value Guidelines 2010-11 prepared by Central Valuation Board, Chhattisgarh, Raipur, in respect of the land which are situated adjacent to National Highway, the compensation is to be awarded at the rate of two and half times the guidelines rates and 70% to be paid as solatium which has not been awarded. In FAM No.157 of 2016, appellant- Hari Singh claimed that on his agricultural land, which was acquired, there was electricity connection and pump which have been removed for which he is also entitled to appropriate damage.
5. On the other hand, learned counsel for the respondent-State argued that as far as compensation amount is concerned, it has been properly awarded because due enquiry was made. He would submit that in all the cases, the Court below, relying upon the entries made in the revenue records, has decided with regard to nature of land. He would submit that once the lands are recorded as land of a particular nature in revenue records, reliance placed on those records to determine the nature of the land could not be faulted. He next submit that claimants in all the cases have taken contradictory stand. While on one hand, they claim their lands to be yielding double crop and irrigated, at the same time, they are claiming compensation on the basis of Market Value Guidelines of 2010-11 by treating their land as commercial land situated

adjacent to the National Highway. Learned counsel for the State would further argue that the Land Acquisition Officer, in order to determine the rates, has taken into consideration sale price of 66 sale transactions involving land in the area and thus on a wider canvas, the aspect of market value of the land has been determined. Therefore, the appellants' claim of determination of market value based on 3-4 sale deeds has rightly been not preferred as against the average rate of market value based on determination of sale price in 66 sale transactions in the near vicinity. Lastly, he submits that in none of the cases, there is any evidence led that the lands are diverted. The appellants are claiming higher compensation seeking to apply Clause -8 of the Market Value Guidelines of 2010-11 whereas that relates to diverted land which are not being used for agricultural purposes whereas even according to appellants' own case, their lands are agricultural land yielding crops. He would submit that in all the cases, compensation has been determined at the rate applicable to agricultural land situated adjacent to National Highway and on these issue respondents have not disputed the claim of the appellants and, in fact, as per the guidelines, rates have been fixed treating the land as those situated adjacent to National Highway.

6. As far as nature of land is concerned, in all the appeals, the appellants have come out with oral evidence and certain documents to show that the land was irrigated one. The Court below, however, treated these lands as "*dorsa-2, padti*" land. To arrive at this conclusion, learned Court below has relied upon entries made in revenue records which are authentic and correctness of the same has not been disputed.
7. None of the appellants could lead any evidence with regard to diversion of their land as commercial one. No order passed in any diversion proceedings diverting the land of the appellants from agricultural to non-agricultural purpose, much less, commercial purpose has been filed. The appellants are, in fact, claiming compensation stating that

their lands were yielding crops and are irrigated. That means, on appellants' own stand, their lands are not diverted land but agricultural land. While according to the Land Acquisition Officer, lands are of the nature 'dorsa-2' *padti*, according to respective appellants, their lands are irrigated land yielding double crop.

8. After going through the orders passed by the Court below in all the appeals and the Award which has been passed, it is found that in order to arrive at the market value, the Land Acquisition Officer has taken into consideration the sale price of as many as 66 sale transactions of the vicinity where the land of the appellants are situated. The appellants, however, came out with some other sale deed containing a higher rate of sale and purchase, but there is hardly any evidence to establish complete identity of two lands, one of the appellants and one involved in those transactions.
9. The compensation has been assessed by taking into consideration that the lands are situated adjacent to the National Highway and that the rate at which compensation has been awarded is Rs.44,45,344/- per acre. Once it is found that lands are not diverted, even if it is held that the lands are irrigated land, yielding crops, Clause- 8 of the Market Value Guidelines 2010-11 does not apply. Therefore, what would be applicable is the rate applicable to lands of all kind situated adjacent to the National Highway. This according to guidelines is Rs.1,09,80,000/- per hectare (Rs.44,45,344/- per acre). It is on this basis that the compensation to the appellants has been determined.
10. Award of solatium is also in accordance with provision of the Land Acquisition Act and no illegality is found therein.
11. The claim of damage by one of the appellant- Hari Singh is also not made out as there is no clinching evidence regarding damage and the Court below has rightly considered the material on record.

12. In the result, there is no material in the appeal and all the appeals are accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Praveen