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HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No.980 of 2019**

- Mohan Lal Vishwakarma S/o. Shri Osa Ram Vishwakarma Aged About 43 Years The In-Charge C.M.O. , Presently Posted As Revenue Sub-Inspector, Nagar Panchayat Kirodimal Nagar, Raigarh, District- Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- **Petitioner****Versus**

1. Fagulal Yadav S/o. Shri Nannhu Ram Aged About 59 Years R/o. Kokaditarai, Tahsil And District Revenue And Civil Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh
2. Shami Abidi Collector Raigarh, District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh
3. Gopal Dubey Chief Municipal Officer, Municipal Office Kirodimal Nagar, Raigarh, District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- **Respondents****CONT No. 91 of 2020**

- Fagulal Yadav S/o Shri Nanhu Ram Aged About 59 Years R/o Kokaditarai, Tahsil And District - Raigarh Chhattisgarh. (Petitioner), District : Raigarh, Chhattisgarh

---- **Petitioner****Versus**

1. Mohan Vishwakarma The Than In - Charge C M O Presently As Revenue Sub Inspector Nagar Panchayat Kirodimal Nagar Raigarh District - Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh
2. Ramayan Pandey, Present Chief Municipal Officer, Nagar Panchayat Kirodimal Nagar Raigarh District - Raigarh Chhattisgarh. (Proposed Contemnors), District : Raigarh, Chhattisgarh

---- **Respondents****MCC No.980 of 2019**

For Petitioner : Shri Surfaraj Khan, Advocate
 For Respondent No.1: Shri Vineet Kumar Pandey, Advocate

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For Petitioner : Shri Vineet Kumar Pandey, Advocate

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

29/01/2020

This order shall govern disposal of MCC No.980 of 2019 and Contempt Case(C)No.91 of 2020.

2. Fagu Lal Yadav filed a writ petition raising grievance that without drawing any acquisition proceedings and paying compensation amount, the Municipal authorities had demolished the boundary wall towards construction of road and drainage. In the said petition, an order was passed on 24-03-2017 directing that in case, Municipal authorities intend to take land of the petitioner, then either proceedings of acquisition be drawn or they may enter into an agreement with the petitioner for taking land on any offered amount of compensation subject to consent of the petitioner. It was also ordered to the acquisition authority that no construction shall be raised over the land of the petitioner. Towards demolition of boundary wall, an amount of Rs.25,000/- was directed to be paid to the petitioner. This was made subject to any amount of compensation as may be claimed by the petitioner before the Municipal Authorities with further observation that in case, the petitioner submits an application along with assessment of compensation based on any report, the Municipal authorities (respondents No.3 & 4 in the writ petition) shall examine the same and work out and whatever compensation is found payable, shall be paid to the petitioner, after adjusting the amount of Rs.25,000/-.

3. Thereafter, the Contempt Petition No.564 of 2017 was filed by the writ petitioner-Fagulal Yadav, alleging willful disobedience that the compensation amount is not being paid. In that case, on 24-08-2018, this Court taking note of submission made by the parties, directed that an amount of Rs.7,93,284/-, which has been worked out by the authorities and payable to the petitioner

according to them, shall be paid to the petitioner by depositing the same in his account within a period of 30 days. This Court further observed that in case, the petitioner is aggrieved by the quantum of compensation, he may submit a claim before the Land Acquisition Officer within 60 days. In that eventuality, the Land Acquisition Officer shall examine the claim and pass an award in accordance with the laws existing on that date. It was also observed that if any amount, more than what has already been paid to the petitioner, is found payable, shall also be paid to the petitioner under the award of the Sub Divisional Officer.

4. In compliance of the aforesaid order, an amount of Rs.7,93,284/- was deposited in the account of the petitioner-Fagulal Yadav by the Nagar Panchayat, Kirodimal, vide memo dated 26-09-2018 (placed in the records of MCC No.980 of 2019).

5. At this stage, certain interventions were moved in the pending Contempt Petition(C)No.564 of 2017 by the nephew and sister of Fagulal Yadav that they are also entitled to apportionment of the amount of compensation. Vide order dated 02-09-2019, the Contempt Petition (C)No.564 of 2017 was disposed off taking note of the aforesaid claims with a direction to the Land Acquisition Officer to decide the claim of claimants including Fagulal Yadav, his brother, sister and any other person who claim apportionment in the compensation amount, consistent with the statutory scheme of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. An application for clarification of order dated 02-09-2019 has been filed by one of the contemnors-Mohan Lal Vishwakarma, the then Incharge Chief Municipal Officer of the Nagar Panchayat stating that pursuant to direction of this Court passed earlier in the Contempt Case No.564 of 2017, an amount of Rs.7,93,284/- was deposited in the account of the petitioner-Fagulal Yadav, but

in the order dated 02-09-2019, inadvertently, it has been written that amount has been deposited before the Land Acquisition Officer, which is factually incorrect. He would submit that the order may be clarified only to that extent that an amount of Rs.7,93,284/- was deposited in the account of the petitioner-Fagulal Yadav.

7. This submission of learned counsel for the petitioner appears to be correct, in view of the memo dated 26-09-2018 and the statement of account of Nagar Panchayat showing transfer of Rs.7,93,284/- in the account of Fagulal Yadav. In fact, this payment was made pursuant to order dated 24-08-2018 passed by this Court in Contempt Case No.564 of 2017. Therefore, the order is accordingly clarified in the manner that wherever there is mention of depositing of amount with the Land Acquisition Officer, it shall be read as depositing in the account of Fagulal Yadav. The contempt petition has been filed by Fagulal Yadav submitting that vide order 24-08-2018 passed in Contempt Case (C)No.564 of 2017, this Court had directed the authorities to examine the claim and thereafter, while finally disposing off the contempt petition, vide order dated 02-09-2019, the spirit of the order passed by this Court clarified that the authorities shall examine the claim and pay appropriate compensation. He would submit that though, Rs.7,93,284/- have been deposited in his account, later on, the Land Acquisition Officer has passed an order dated 20-08-2019(Annexure C-3) determining additional amount of compensation and also payment of same to him, which has not been paid till date. Therefore, this contempt petition has been filed.

8. Contempt Petition(C)No.91 of 2020 has been filed mainly because despite determining compensation by the Land Acquisition Officer and memo dated 14-10-2019 written to the Chief Municipal Officer, Nagar Panchayat, balance amount of compensation has not been released in favour of the

petitioner-Fagulal Yadav.

9. Considering that memo dated 14-10-2019, which was sent by the Sub Divisional Officer (Land Acquisition Officer) to the Chief Municipal Officer regarding balance amount of compensation, the Nagar Panchayat is obliged to pay appropriate compensation. The Nagar Panchayat is either required to pay the balance amount of compensation as ordered by the Land Acquisition Officer or if he is not satisfied by the order passed by the Land Acquisition Officer, he may take appropriate proceedings. However, the matter cannot be left without any action being taken. In case, the Nagar Panchayat does not dispute the award dated 20-08-2019 of the Land Acquisition Officer in any properly constituted proceedings before any authority of the Court of law within a period of two months from the date of receipt of a copy of this order, the compensation amount, as determined by the Land Acquisition Officer will have to be paid to Mr. Fagulal Yadav. At this stage, it is necessary to clarify that while finally disposing off the Contempt Petition(C)No.564 of 2017, vide order dated 02-09-2019, this Court had also observed regarding pending claims of other claimants, unless there is any agreement entered into amongst all the claimants or order of any Court of law including Fagulal Yadav. Additional amount would be payable to Fagulal Yadav only according to his share, as may be determined by the Land Acquisition Officer.

10. In view of above, the MCC No.980 of 2019 and Contempt Petition(C)No.91 of 2020 stand disposed off.

SD/-
(**Manindra Mohan Shrivastava**)
J U D G E