

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 06.03.2020

Order Passed on : 20/03/2020

W.P.(227) No.827 of 2019

- Sushila W/o Shri Chandrajit Aged About 33 Years (Wrongly Mentioned In Order Sheet), R/o Of Jutemill, Tehsil And District - Raigarh Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mantralaya, Raipur Chhattisgarh
2. The Under Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur, District - Raipur Chhattisgarh
3. The Secretary, Department Of Commerce And Industry, Mahanadi Bhawan, Mantralaya, New Raipur, District - Raipur Chhattisgarh
4. The Tehsildaar, Raigarh District Raigarh Chhattisgarh
5. The Collector (Land Acquisition Authority) , Raigarh District - Raigarh Chhattisgarh
6. The Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Raigarh, District Raigarh Chhattisgarh
7. National Thermal Power Corporation, Through Its Group General Manager, N T P C Limited, Coal Mines Project, Gharghoda, District Raigarh Chhattisgarh
8. Mukesh Kumar S/o Shri Madhushudan Mehar, Aged About 33 Years R/o Village - Rengalpalli, Tehsil - Pussore, District - Raigarh Chhattisgarh., Present Address - Village - Kanaktura, District - Sundergarh (Odisha)

---- Respondents

For Petitioner	:	Mr. Rajat Agrawal, Advocate.
For respondent No.1 to 6	:	Mr. Devendra Pratap Singh, Dy.A.G.
For Respondent No.7	:	Mr. B.D. Guru, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

C A V ORDER

20/03/2020

1. This petition has been brought challenging the order dated 29.01.2019 passed by the Civil Court by which the application filed by the petitioner under Order 7 Rule 11 of C.P.C. was dismissed and also the order dated 06.01.2015 passed by the Tehsildar by which the mutation ordered in favour of the petitioner was set aside.
2. It is submitted by the learned counsel for the petitioner that the petitioner had made purchase of a piece of land from Mukesh Kumar Menon on 13.05.2013, on consideration. This purchase was made prior to the notification regarding the acquisition of the said land and other lands. Subsequent to which, the land purchased by the petitioner was acquired for construction of railway lines. The applicant and other purchasers of the lands objected in the land acquisition proceeding but the award has been passed in favour of the original land owner, after rejecting the objection raised by the applicant/petitioner and others. The land in question was also mutated in favour of the petitioner. Subsequent to the purchase made by her. The order of mutation has been reviewed by the Tehsildar by the impugned order dated 06.01.2015 and the mutation has been set aside.
3. It is further submitted by the learned counsel for the State that State has filed a Civil Suit No.639 of 2019 against the petitioner and one another in which the petitioners filed application under Order 7 Rule 11 of C.P.C. raised the objection, that the suit is time barred and also that

under Section 63 of the Land Acquisition Act, the Court has no jurisdiction to hear the case. None of the parties of the sale transaction have filed his suit. The suit is clearly barred by the Section 63 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The learned trial Court has erroneously rejected this application. Therefore, it is prayed that the impugned order may be set aside.

4. Learned counsel appearing for respondent No.1 submits that the present petition under Article 227 of Constitution of India is not maintainable. The petitioner has liberty to file revision against the order passed by the Civil Court. It is also argued that the learned trial Court has not committed any error in passing of the impugned order. It is submitted that in the case of **N.T.P.C. Ltd. Vs. Shrayansh Jaiswal** in Writ Appeal No.47 of 2016 and in all other writ appeals, the Division Bench of this Court has held, that the projects which involves public money in such matter, the State is bound to protect the public interest. Therefore, the State has locus-standi to file civil suit. It is submitted that the land in question and other lands were already surveyed for the purposes of acquisition. Therefore, the petitioner and other persons only for the purpose of taking benefit from the acquisition have made purchase of the land. No bonafides appear from the said sale transaction, which has taken place in huge number and on the same date and the land involved is only a small chunk of land, therefore, the sale transaction was not bonafide in any sense. The State has the interest to protect the public money because the compensation for acquisition has to be paid from the public exchequer. Hence, the State is entitled to bring a civil suit against the petitioner and others.

5. Learned counsel for the respondent No.7 submits that the application

filed by the petitioner under Order 7 Rule 11 of C.P.C. has been rightly rejected and the petitioner is not entitled for any relief. The arguments advanced by the learned counsel for the State is adopted and submits that the petition be dismissed.

6. In reply, it is submitted by the learned counsel for the petitioner that relying on the judgment of Supreme Court in **Surya Dev Rai Vs. Ram Chander Rai** reported in **2003 (6) SCC 675**, it is submitted that the parameters would exercise jurisdiction under Article 226 and 227 of Constitution of India cannot be tied down in a straight jacket formula or rigid rules. Therefore, if any perversity is seen in any order passed by any Court or Tribunal, the High Court has jurisdiction to interfere in the same. In this particular case, the transaction of the petitioner for purchase of land was bonafide and prior to the notification that was issued for acquisition of land and also that the State in this case has no interest to prosecute. Section 31 of the Specific Relief Act does not give any entitlement to the respondent side to file a suit for cancellation of sale in which the State is not itself a party.
7. Leaving aside the facts of the case and concentrating on the orders passed, it would appear that the order passed by the Civil Court rejecting the application under Order 7 Rule 11 of C.P.C. can be challenged in Civil Revision. In the impugned order, it has been held by the trial Court that the question of limitation is a mixed question of fact of law, therefore, it would require recording of evidence. The other ground raised that the suit is barred under Section 63 of the Land Acquisition Act, 2013, has also been rejected mentioning that the dispute being within the domain of collector and the authority concerned, the Civil Court will have no jurisdiction. The dispute raised in the case is different, challenging the legality of the sale deed executed in favour of the

petitioner, therefore, no fault can be found with the order of the Court below.

8. The other ground regarding the locus-standi of the State is considered. Section 57 of C.G. Land Revenue Code clearly provides that all lands belong to the State Government, therefore, any private owner of the land is entitled to exercise the right of ownership and title only on behalf of State. The other ground raised in the arguments by the respondent side that the question involved in this case is regarding the person entitled for grant of compensation, it also involves the payment of compensation. The State has the responsibility to ascertain the correctness of the claim for compensation made by the persons concerned. Therefore, it appears that the suit filed by the State is maintainable.
9. Section 64 of the Right to Fair Compensation Act, 2013 is not applicable to the petitioner, as this provision applies to the person in whose favour the award has been passed and he has a right to object making a payment of fair compensation. Therefore, I do not find any error in the order passed by the Civil Court.
10. As regards the order passed by Tehsildar reviewing the earlier order and setting aside the mutation that had been in favour of the petitioner is again an appealable order, for which the appeal can be filed by the petitioner. Hence, this petitioner under Article 227 of Constitution of India cannot be entertained which is dismissed.
11. Accordingly, the petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge