

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 230 of 2019

National Highways Authority Of India, Through Its Project Director, Shankar Nagar, Raipur, Chhattisgarh (Now From The Year 2016, New Office Was Opened At D - 61, H I G - 1, Abhilasha Parisar, Behind New Bus Stand, Tifra, Bilaspur, Through The Project Director, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

1. Kishore Kumar Gemnani S/o Late Shri Bishandas Gemnani, Aged About 50 Years R/o Torwa Main Road, Bilaspur, Tahsil And District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District - Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Sub - Divisional Officer (Revenue) And Land Acquisition Officer, Bilaspur, District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
4. Engineer - In - Chief, Public Works Department, Shankar Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Applicant	:	Shri Dhiraj Wankhede, Advocate
For Respondent No.1	:	Shri Sunil Otwani, Advocate
For State/respondents No.2, 3 & 4 :		Shri Alok Bakshi, Addl. Advocate General

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/03/2020

1. This review petition has been filed seeking review of order dated 19.5.2017 passed in WPC No.1369 of 2017.
2. Learned counsel for the applicant/respondent in the writ petition would submit that the land of the respondent (original writ petitioner) was earlier acquired by the State Government. That land was, however, not

required for construction of national highway because of re-alignment. A statement was made before the Court that the land is not being used for construction of national highway due to re-alignment. According to him, at that time, the National Highways Authority was not requiring the land of the writ petitioner. However, later on, another highway project has been initiated by issuance of a Notification dated 9th October 2018. He would submit that in view of this subsequent development after the passing of the order of the Court, the National Highways Authority would again be requiring the said land and, therefore, the order passed by this Court earlier may be recalled. According to him, Notification under Section 3D of the National Highways Act, 1956, has also been notified including the said land.

3. Learned counsel for the writ petitioner (respondent herein) would submit that the petitioner had filed the writ petition praying that as his land has not been used for the purpose for which it was required, he was entitled to return of the land. The writ petition was disposed off in view of statement made by the State that petitioner's land is not being used for construction for national highway due to realignment. Learned counsel for the petitioner submits that in view of the statement made before the Court that the land is no longer required, there was no occasion for considering the merits of the case.
4. It appears that on the statement made by the State counsel that petitioner's land is not being used for construction of national highway due to realignment, this Court had disposed off the petition with a direction to take necessary proceedings to de-notify the land of the writ petitioner by drawing appropriate proceedings under the law.
5. It appears that because of certain statement made by the State counsel, the writ petition was disposed off with direction to de-notify. Therefore, the petitioner in the writ petition had no occasion and liberty to seek adjudication on merits in view of subsequent development and serious dispute which are now being raised by the National Highway Authority and further that in the connected contempt case, the authority had not

passed any order with regard to de-notification, obviously because the old Act of 1894 had already been repealed and there is considerable scope for argument regarding availability of power of de-notification under the new Act of 2013. I consider it to be fair to all the parties that earlier order should be recalled so that the parties including the writ petitioner would be at liberty to reclaim the land by seeking order on merits.

6. In that view of the matter, order dated 19.5.2017 passed in the writ petition is recalled and the Writ Petition No.1369 of 2017 is restored. It will be open for the writ petitioner to move appropriate application and suitably amend his petition in view of subsequent events and seek adjudication on merits of his claim.
7. The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge