

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 43 of 2020

1. Smt. Jodhti W/o Dangar, Aged About 60 Years, R/o Village Nagadand Bisarpani, Police Station Kamleshwarpur, Tahsil Mainpat, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
2. Kaushilya Yadav D/o Ajayab Yadav, Aged About 55 Years, R/o Village Nagadand Bisarpani, Police Station Kamleshwarpur, Tahsil Mainpat, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
3. Ananti Yadav W/o Ajayab Yadav, Aged About 70 Years, R/o Village Nagadand Bisarpani, Police Station Kamleshwarpur, Tahsil Mainpat, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh, through Secretary, Panchayat and Rural Development Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Secretary Department of Mines and Minerals, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Collector Ambikapur, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
4. Land Acquisition Officer-cum-Sub Divisional Officer (Revenue), Sitapur, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
5. Tahsildar, Tahsil Mainpat, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
6. Authorised Officer Chhattisgarh Mineral Development Corporation, Ambikapur, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

----Respondents

For Petitioners – Shri C. Jayant K. Rao, Advocate.

For State – Shri Ravi Bhagat, Deputy Govt. Advocate.

For Respondent No.6 – Shri R.S. Patel and Shri Palash Agrawal, Advocates.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-11-2021

1. This petition has been brought praying for issuance of writ of mandamus against the acquisition procedure initiated against the petitioners.
2. It is submitted that the petitioners are owners of agricultural land

situated in Gram Bisarpani, Tahsil Mainpat, District Surguja. The respondent authorities without making acquisition of the land of the petitioner and granting award of compensation are attempting to disposes the petitioners and also attempting to make excavation of bauxite ore from the land of the petitioners.

3. The petitioner No.1 filed a representation dated 17-12-2019 before respondent No.3 on which no action has been taken. According to the reply submitted by the respondents, the document Annexure-R6-2, compensation has been disbursed to minor Shivnarayan, but no such payment has been received. All the petitioners are joint owners of the agricultural land. Claim of respondent No.6 is regarding payment to minor Shivnarayan is not substantiated with any proof. Hence, it is prayed that the petitioners be granted relief directing the respondent authorities not to acquire the land of the petitioners and not to dispossess the petitioners from their agricultural land till finalization of the acquisition proceeding and payment of compensation.

4. The State counsel representing respondents No.1 to 5 opposes the submissions. It is submitted that the petition filed is misconceived and there is suppression of facts from the petitioners side. It is on this basis the interim order has been obtained by the petitioners. The petition is without any substance which may be dismissed.

5. Learned counsel for respondent No.6 opposes the submission and submits that so called minor Shivnarayan is an essential party in this petition. It is submitted that although the record show that Shivnarayan is minor, but he was not minor at the time when the compensation was paid. It is admitted that representation was made to the Collector in year 2019 praying for compensation on the basis of the award passed on 18-02-2009 (Annexure-R-6-1). In that award the name of Shivnarayan is mentioned, but he is not shown as a minor. The petition is delayed by at about 11 years, therefore, it is not liable to be entertained which should be dismissed.

6. In reply, it is submitted by learned counsel for the petitioners that all the petitioners are claimants and the revenue record Annexure-P/1 shows the entry in which the minor Shivnarayan as well as name of all the petitioners. It is submitted that the land bearing Khasra No.176/6, 178/2 were acquired, but no compensation has been granted to petitioners No.2 and 3. Hence, appropriate orders be passed.

7. Considered on the submissions. Looking to the award dated 18-02-2009 (Annexure-R-6-1), the acquisition of land bearing Khasra No.176/6, 178/2 and 178/18 reflects the name of Ramashankar and others. Similarly, against the acquisition of Khasra No.178/19 the name reflected is Shivnarayan.

Annexure-P/1 which is copy of Record of Rights of 2017-18 which shows Shivnarayan as minor along with co-accused minor Kishun and Jodhti who is the petitioner No.1. Similarly, copy of record of Rights of 2017-18 shows Umashankar, Ramashankar, Amarnath Vijay S/o Ajayab along with Kaushilya, petitioner No.2 D/o of Ajayab and Ananti, petitioner No.3 widow of Ajayab as joint owner.

The documents of respondent No.6, Annexur-R6-2 shows that the compensation has been disbursed to minor Shivnarayan and minor Kishun through their guardian mother who is petitioner No.1. Hence, after considering on the submission and perusing the documents present on record, it appears that the award has been passed in the year 2009 and it is claim of the respondent side that the amount of compensation as determined for the land acquisition have been disbursed to the concerned. The document of respondents shows disbursal of the compensation to the respective claimants, whereas, the petitioners claim that they have not received any compensation. All the petitioners are one of the joint owners of the land acquisitioned and compensated in the year 2009. This petition has not been brought by persons affected by the land acquisition process. Therefore, the disbursal of the

compensation appears to be an established fact. It is to be noticed that all the petitioners are women and the joint holders of the property. Therefore, in case the compensation has been received by other joint owners who are men, in that case if the petitioners want to establish claim for separate share, then they will have to approach civil court against the co-owners for such relief. Therefore, I am of this view that this petition is misconceived and it is also delayed by almost 11 years. Hence, I do not find any substance in this petition, which is dismissed and disposed off.

8. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge