

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****REVP No. 95 of 2010**

1. Laxmi Chand, aged 58 years, S/o Shanker Lal Nathani, R/o of Sadar Bazar, Raipur (C.G.)
2. Sanjay, S/o Shri Sunder Lal Nathani, aged 34 years, R/o of Sadar Bazar, Raipur (C.G.)
3. Ram Ratan, aged 50 years, S/o Ganga Das Nathani, R/o of Sadar Bazar, Raipur (C.G.)
4. Panna lal, aged 5 years, S/o Purshottam Das Nathani, R/o of Sadar Bazar, Raipur (C.G.)

---- Petitioners**Versus**

1. State of Chhattisgarh Through Secretary Revenue Department, DKS Bhawan, Raipur, Tahsil and District Raipur (C.G.).
2. Raipur Municipal Corporation, The Commissioner, a Body Corporate, Raipur, Tahsil and District Raipur (C.G.)
3. The Collector, Raipur, District-Raipur (C.G.).
4. The Land Acquisition Officer, Raipur, District Raipur (C.G.).

---- Respondents

For Petitioners	-	Shri V.V.S. Murthi, Senior Advocate with Shri Shantanu Kumar, Advocate.
For Respondents	-	Shri Alok Bakshi, Additional Advocate General with Shri Ravish Verma, Government Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Hon'ble Smt. Justice Rajani Dubey

Order On Board

By

Hon'ble Shri Prashant Kumar Mishra J.

19/03/2021

1. This instant review petition is preferred for review of the final Order dated 16-07-2010 passed by this Court in W.P. No. 2247 of 2001 wherein this Court has passed the following Order:-

“2. In the return filed on behalf of respondent No.2, Municipal Corporation Raipur, it has been mentioned that the award has been made and the amount of compensation has been deposited by respondent No.2 with the Sub Divisional Officer (Revenue-cum-Land Acquisition Officer), therefore, nothing remains to be adjudicated by this Court.

3. In this view of the matter, the petitioner may approach the concerned Land Acquisition Officer in accordance with the provisions of M.P. Gandhi Basti Kshetra (Sundhar Tatha Nirmulan) Adhiniyam, 1976 (hereinafter referred to the Act, 1976) as the land acquisition proceedings were commenced under the said Act.

3. With the above observation, this petition stands disposed of.”

2. In this review application, the applicants contend that the entire basis of the above final Order passed in writ petition is that land acquisition award has been made and the amount

of compensation has been deposited by the respondent No.2- Municipal Corporation, Raipur with the Sub Divisional Officer (Revenue-cum-Land Acquisition Officer). On this premise, this Court observed that nothing remains to be adjudicated by this Court. However, in the writ petition, the petitioners had prayed for following reliefs:-

“7.1. That, this Hon'ble Court be pleased to strike down Section-13 of the Gandhi Basti Adhiniyam 1976 as it is inconsistent with the provision of Section-23 of the Land Acquisition Act, 1894 and offending Article-14 and proviso to Article-31-A of the Constitution of India;

7.2. That the respondents be mandated to determine the compensation of the Lands which the respondents have taken possession of;

7.3. In case the compensation is already determined under Section-16[3] of the Act of 1976 the respondents be mandated to the deposit determined compensation to the petitioners under Section-18 of the Act of 1976;

7.4. In case the compensation is deposited with the District and Sessions Judge under Section 32 and 33 of the Land Acquisition Act or under Section 18 [2] of the Act 1976 with the District Judge then the respondents be directed to allow the petitioners to withdraw the amount from the District and Sessions Judge Raipur.

7.5. Any other relief which Hon'ble Court may deem fit and proper may also be passed in favour of the petitioner;”

3. The review petitioners further contend that award was never passed in the land acquisition proceeding, therefore, the very basis of the Order proceeds on incorrect facts, hence,

the same deserves to be reviewed and recalled and the writ petition deserves to be heard on merits.

4. In reply to the above contention, the respondent have submitted, thus, on affidavit, in paragraph-12:-

“12. That, as the compensation amount remained un-deposited the Sub Divisional Officer-cum-Land Acquisition Officer, Raipur closed the acquisition proceedings on 04-11-1992 and no final award was passed.”

5. In view of the above statement made by the respondent/State, there appears an error apparent on the face of the record insofar as the finality of the land acquisition proceeding is concerned, therefore, we allow the review application and recall the Order dated 16-07-2010 passed in W.P. No.2247 of 2001.
6. Consequently, the writ petition is restored to its original number and shall be heard on merits.

SD/-

(Prashant Kumar Mishra)
Judge

SD/-

(Rajani Dubey)
Judge