

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 452 of 2021**

- Usha Devi Agrawal W/o Shri Hanuman Prasad Agrawal Aged About 71 Years
R/o Near State Bank Of India, New Sarkanda, Bilaspur Tehsil And District
Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster
Management Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District
Raipur Chhattisgarh
2. Union Of India Through Secretary, Ministry Of Road, Transport And Highways,
New Delhi
3. Commissioner (Revenue) Bilaspur Division, District Bilaspur Chhattisgarh
4. Collector Bilaspur, District Bilaspur Chhattisgarh
5. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer Bilaspur, District
Bilaspur Chhattisgarh
6. National Highway Authority Of India Through Project, Director, Project
Implementation Unit, Bilaspur, Office At D-61, H.I.G. - 1, Abhilasha Parisar,
Behind New Bus Stand, Tifra, Bilaspur District Bilaspur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Harsh Wardhan, Advocate
For Respondents/State	:	Ms. Richa Shukla, Dy. GA
For Respondent No.2	:	Shri Tushar Dhar Diwan, Advocate appears on behalf of Shri Ramakant Mishra, ASG for the Union of India
For Respondent No.6	:	Shri Dhiraj Kumar Wankhede, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order****03/02/2021**

1. Heard.

2. The instant petition has been filed for the following reliefs:-

“10.1 That, the Hon'ble Court may be kindly pleased to call for the entire records pertaining to the Land Acquisition of petitioner land and in respect of the land acquisition proceedings undertaken, in the possession of the respondents, for its kind perusal.

10.2 That, this Hon'ble Court may kindly be pleased to direct the respondents to release the unused land of the petitioner after accepting the amount of compensation from the petitioner as received by the petitioner for the said piece of land.

10.3 That, this Hon'ble Court may kindly be pleased to quash and set aside the impugned letter dated 08.09.2020 (**ANNEXURE P-4**) issued by the respondent No.6 declare the same to be illegal.

10.4 That, the Hon'ble Court may be pleased to grant any other relief which the Hon'ble Court deems fit and proper in the facts and circumstances of the present case including grant cost of the petition to the petitioner.”

3. Learned counsel for the petitioner would submit that pursuant to an award for the land acquisition on 01.07.2018, the compensation was paid and as on this date the entire construction of the road is over. Thereafter there are some unused land which is adjacent to road of which the petitioner is the owner wherein the godown situates and it was also part of acquisition. He would further submit that since eventually the burden would be on exchequer and if the National Highway do not require the land, then in such case, the petitioner's land which was acquired be denotified and returned back which in turn will save the exchequer.
4. Learned counsel for respondent No.6 would submit that a serious suppression of facts have been made by the petitioner. He referred to para 8.5 of the

petition wherein it is stated that the proper compensation has not been paid in respect of the constructed godowns and the application which is preferred by the petitioner has not yet registered and no hearing has taken place. Whereas the reply of respondent No.6 would show that the reference has already been made under Section 3 (G) (5) of the National Highways Act, 1956 (for short 'the Act, 1956') and the reference before the arbitrator is pending, therefore, it is the arbitrator who will ultimately adjudicate and there is no question of denotification as the award has already been passed and the arbitration is pending.

5. Perusal of the documents would show that since the reference has already been made before the arbitrator which is pending and on certain dates the hearing has also taken place. Therefore, as per the reply of respondent No.6 simultaneous proceedings by this Court cannot be taken up as the issue is already sub-judice before the arbitrator under Section 3 (G) (5) of the Act, 1956, therefore, I am not inclined to entertain this petition.
6. Accordingly, the petition is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu