

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C.) No.769 of 2021

- Panchram Sahu S/o Motiram Aged About 47 Years Owner Of Land Bearing Khasra No 1381, 1382, 1383, R/o Village Jarondha Police Station Takhatpur District Bilaspur Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Water Resources Department, New Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur, District Raipur Chhattisgarh
2. Engineer In Chief Water Resources Department, Sector 19, Shivnath Bhawan, Atal Nagar, Raipur, Chhattisgarh
3. Executive Engineer Water Resources Division Kota District Bilaspur Chhattisgarh
4. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer Kota, District Bilaspur Chhattisgarh
5. Collector District Bilaspur Chhattisgarh

---- Respondents

For Petitioner : Mr. Sushobhit Singh, Advocate.

For State/respondent : Mrs. Astha Shukla, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

30/11/2021

1. This petition has been brought praying for issuance of appropriate writ directing the respondent authorities to determine the compensation for the acquisition of the land of the petitioners.

2. It is submitted that the land belonging to the petitioner was acquired. Although the award of compensation has been passed but the respondent authorities have failed to appreciate Section 26 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which provides that the computation of compensation has to be made on the basis of the market value, secondly, the multiplying factor has to be applied according to the provision for multiplying factor as per Chhattisgarh Right to Fair Compensation and Transparency in land acquisition, Rehabilitation and Resettlement (Determination of Multiplying Factor in case of Rural Areas) Act, 2019. Thirdly, the grant of solatium was not considered and fourthly, no interest was granted in the impugned award dated 08.05.2019 (Annexure-P/2).
3. Reliance has been placed on the judgment of Supreme Court in the case of The Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation Development Corporation Vs. Mahesh And Others in Civil Appeals a/o. SLP (C) Nos.13093- 13094 of 2018 delivered on 10.11.2021. The Hon'ble Supreme Court has observed that the compensation includes the market price, multiplying factor, solatium and interest. Therefore, it is prayed that appropriate order be passed for issuance of direction to the respondent authorities. Petitioner has also relied upon the judgment of this Court in the Case of The State of Chhattisgarh & Ors. Vs. Mahadev Gond & Others in W.P.(C.) No.1961/2018 decided on 18.07.2018.
4. Learned State counsel opposes the submission and submits that the multiplying factor was notified on 02.05.2019, whereas the

award was passed on 08.05.2019. The proceeding for determining compensation was initiated prior to the notification dated 02.05.2019. This notification does not have retrospective effect. It is also submitted that the present petition is delayed by more than one and half years.

5. In the case of The State of Chhattisgarh & Ors. Vs. Mahadev Gond & Ors. Before Hon'ble Supreme Court S.L.P. Civil No.15189 of 2020 by order dated 12.10.2020 the judgment in Mahadev Gond Vs. State of Chhattisgarh Case has been stayed. Hence, the petition may be dismissed and disposed off.
6. In reply, it is submitted that that notification dated 02.05.2019 was issued prior to the date of award that is 08.05.2019, therefore, the date of initiation of proceeding is not to be reckoned, which is the date from which, the law which is applicable has to be reckoned.
7. Considered on the submissions, the judgment in the Mahadev Gond (Supra) was delivered on 18.07.2018, whereas the notification of multiplier has been issued on 02.05.2019 subsequent to that date. Clause 3 of the notification dated 02.05.2019 mentions that this notification has come into force on the date of its publication in the official gazette. Hence, after the publication of 02.05.2019 notification, the provisions for multiplying factor had become effective and that was required to be followed in determining the compensation. As there is grievance of the petitioner on various counts which are mentioned hereinabove in the submissions. Therefore, there appears to be requirement present for issuance of direction. The petitioner is granted liberty to file representation before the respondent No.4

and 5 raising of the grounds, which he had raised in the present petition. This representation may be filed within a period of 15 days from today. The respondent No.4 and 5 are directed that in case if such representation filed then the same shall be taken up for consideration in accordance with law and procedure and be decided within a period of 120 days from the date the representation is received.

8. With these observations and directions, the petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge