

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2190 of 2021**

Awdhesh Sharma S/o Late Saheb Lal Sharma, Aged About 42 Years Owner Of Part Of Land Bearing Khasra No. 14 (Village Daganiya) R/o Village Daganiya P.O. Khaira Tehsil District Bilaspur Chhattisgarh.

---- Petitioner**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, Kharang, Bilaspur District Bilaspur Chhattisgarh
4. Collector, Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	: Mr. Sushobhit Singh, Advocate
For Respondents/ State	: Mr. Chandresh Shrivastava, Dy.A.G.

Hon'ble Shri Rajendra Chandra Singh Samant**Order on Board****29.11.2021**

Heard

1. It is submitted by the learned counsel for the petitioner that the disputed land bearing Kh. No.14, admeasuring 0.12 acres, situated in Village Daganiya, District – Bilaspur was recorded in the name of the late father of the petitioner. After the death of the father of the petitioner, the disputed land has devolved upon the successor i.e. the petitioner. This land has been utilized for construction of Khaira

Daganiya Anicut and approach road. The land above mentioned is proposed to be acquired under the provisions of Apsi Sahmati Se Bhumi Kray Niti, 2016. Consent letter vide Annexure P-2 given by the father of the petitioner is being challenged by the petitioner, that after the death of the father of the petitioner as the consent earlier given by his father is not acceptable to the petitioner. It is submitted that according to the amendment, 2019 in the Apsi Sahmati Se Bhumi Kray Niti, 2016, the petitioner is entitled for compensation, which will includes the price of the land according to the guide lines issued by the Collector with respect to immovable property and with solatium amount. Therefore, the petitioner be either granted compensation according to amended scheme of 2019 or his land be acquired as per law.

2. Learned State counsel opposes the submission. It is submitted that Annexure P-3 amendment of scheme 2016 does not have any retrospective effect. The proposal for purchase of the land was given prior to the notification dated 25.11.2019 by which, the father of the petitioner had given his consent. Copy of which has been filed as Annexure R-2. The Policy 2016 was prevailing at the time, when the land was utilized. Hence, the determination of compensation shall be in accordance with this policy provisions prior to the amendment dated 25.11.2019. Hence, this petition deserves to be dismissed.
3. In reply, it submitted that the documents Annexure R-2 is undated, therefore, the same is not acceptable to the petitioner. Sale deed was also not executed by the father of the petitioner, therefore, in present circumstances, the determination of the compensation shall be governed by the notification dated 25.11.2019 (Annexure R-3).

4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. According to the Purchase Policy 2016, the Clause 2.4 of this policy provides that in case of purchase of private land, the consideration shall be in accordance with the guidelines issued by the Collector. Clause 2.5 provides that solatium equalling to the amount of consideration shall also be granted and in case there is other immovable properties situated on the private land, then the solatium shall be doubled amount of consideration. Further policy of scheme, 2016 after following the procedure as provided for verification etc. of the land and the title on the private land, the Collector shall proceed to purchase the land regarding which, he has received consent within a period of one year from the date of consent and make payment of the consideration and grant solatium etc. this policy also provides for registration of sale deed.
6. Considering that no sale deed has been executed by the father of the petitioner in favour of the respondent authorities and the provisions in the policy 2016 have not been followed so far. The petitioner has inherited the land belonging to his father and he is not willing to ratify the consent given by his father. Although the land has been acquired prior to the notification dated 25.11.2019 but for the reasons that the consideration regarding the same has not been determined till date, neither the sale deed has been executed, therefore, in case, the respondent authorities intend to proceed in accordance with the purchase policy, then they will have to comply with the amended provision for grant of consideration solatium etc. as per notification dated 25.11.2019. Hence, this petition is disposed of at motion stage. The respondent authorities are directed to proceed in accordance with

the policy 2016 taking cognizance of the amended policy, which has been notified on 25.11.2019, and determine consideration, solatium etc. as per law at the earliest within a period of 120 days from today. The petitioner is also directed to co-operate with the respondents authorities in the above procedure.

7. With these observations, this petition stands disposed off.

**Sd/-
(Rajendra Chandra Singh Samant)
Judge**