

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment Reserved on : 16.03.2021

Judgment Delivered on : 25.03.2021

Writ Appeal No. 641 of 2018

(Arising out of order dated 30.11.2016 passed by the learned Single in

WPC No. 867 / 2016)

- National Mineral Development Corporation Limited (NMDC Ltd.) Through Its Chairman Cum Managing Director, Nagarnaar Steel Plant, District Bastar Chhattisgarh. (Respondent No. 2)

---- Petitioner

Versus

1. State of Chhattisgarh Through The Secretary, Ministry of Revenue, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh. (Respondent No.1)
2. Uwaasi Wd/o Late Shri Sukhman Aged About 72 Years R/o Village Nagarnaar, Tehsil - Jagdalpur, District Bastar Chhattisgarh. (Petitioner No. 1)
3. Malti Wd/o Late Shri Singhdu, Aged About 52 Years R/o Patelpara, Village - Nagarnaar, Tehsil - Jagdalpur, District Bastar Chhattisgarh. (Petitioner No.2)
4. Gurmati W/o Shri Sonsai, Aged About 42 Years R/o Village - Nagarnaar, Tehsil - Jagdalpur, District Bastar Chhattisgarh. Presently At Aamaguda, Tehsil - Jagdalpur, District Bastar Chhattisgarh. (Petitioner No. 3)
5. Padmini Besra W/o Shri Sridhar Besra, Aged About 47 Years R/o Village - Nagarnaar, Tehsil - Jagdalpur, District Bastar Chhattisgarh. (Petitioner No. 4)
6. Maan Sai (Now Deceased) Through Legal Representatives- 6.1 - (A) Baan Singh S/o Late Shri Maan Sai
7. Kapil Das (Now Deceased) Through Legal Representatives- 7.1 - (A) Kamla W/o Late Shri Kapil Das Aged About 40 Years 7.2 - (B) Archana D/o Late Shri Kapil Das Aged About 11 Years 7.3 - (C) Kanchan D/o Late Shri Kapil Das Aged About 8 Years 7.4 - (D) Upendra S/o Late Shri Kapil Das Aged About 7 Years
8. Mangal Dei Wd/o Shri Mano Aged About 62 Years R/o Village - Nagarnaar, Tehsil - Jagdalpur, District Bastar Chhattisgarh. (Petitioner No. 7)

---- Respondents

WPC No. 2390 of 2018

- National Mineral Development Corporation Limited (NMDC Ltd) Through Its Executive Director, Nagarnaar Steel Plant, District Bastar, Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through The Secretary, Ministry of Revenue Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Collector- Cum- Land Acquisition Officer Tahsil Jagdalpur, District Bastar, Chhattisgarh.
3. Uwaasi W/o Widow Of Late Sukhman Aged About 70 Years R/o Village Nagarnaar, Tahsil Jagdalpur, District Bastar, Chhattisgarh.

4. Malti W/o Widow Of Late Singhdu Aged About 50 Years R/o Patelpara, R/o Village Nagarnaar, Tahsil Jagdalpur, District Bastar, Chhattisgarh.
5. Gurmati W/o W/o Sonsai Aged About 40 Years R/o Village Nagarnaar, Tahsil Jagdalpur, District Bastar, Chhattisgarh. Presently At Aamaguda, Tahsil Jagdalpur, District Bastar, Chhattisgarh.
6. Padmani Besra W/o W/o Sridhar Besra Aged About 45 Years R/o Village Nagarnaar Tahsil Jagdalpur, District Bastar, Chhattisgarh.
7. Maan Sai D/o S/o Lt. Sonu Aged About 50 Years R/o Patelpara, Village Nagarnaar Tahsil Jagdalpur, District Bastar, Chhattisgarh.
8. Kapil Das S/o S/o Late Shatruhan Das Aged About 46 Years R/o Patelpara, Village Nagarnaar Tahsil Jagdalpur, District Bastar, Chhattisgarh.

---- Respondents

For Appellant/Petitioner (NMDC)	:	Mr. K. Raghavacharyulu with Mr. Vaibhav Shukla, Mr. K. Rohan and Ms. Astha Shukla, Advocates
For Respondents / State	:	Mr. Sudeep Agrawal, Dy. A.G.
For Respondents/ Claimants	:	Mr. B. P. Sharma with Mr. Raza Ali, Mr. M.L. Saket and Mr. Anmol Sharma Advocates

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

CAV JUDGMENT

Per P. R. Ramachandra Menon, Chief Justice

1. — “Can the same property, which was part of the subject matter of acquisition under the old Act *i.e.* the Land Acquisition Act, 1894 (hereinafter referred to as, 'the Act, 1956') and handed over to the Appellant two decades ago, where a Plant is set up by the Appellant, after effecting mutation in the revenue records, could now be proposed to be acquired afresh under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act, 2013'); that too at the instance of the erstwhile lessees, who had acquired no title / ownership rights over the land that was remaining as Government land ?”

— “Is the judgment passed by the learned Single Judge, directing to initiate proceedings to correct the 'errors' under Section 89 of the Chhattisgarh Land Revenue Code, 1959 (hereinafter referred to as 'the LRC, 1959') and thereafter propose to acquire the land after obtaining orders from the State Government, complete the acquisition proceedings and pay compensation to the aforesaid lessees, who filed the writ petition in the year 2016 (i.e. after 22 years of the expiry of the lease period), is bad in law, allegedly for having obtained it playing fraud on the Court by not revealing the actual nature of assignment ?”

— “Is there any fault or lapse on the part of the Appellant or the Acquisition Authority, to be compensated in any manner, despite the callous inaction on the part of the erstwhile lessees / writ Petitioners ?”

— “Can the erstwhile lessees of the property, who approached the Court by filing writ petition for paying compensation as given to the other similarly situated persons, after 22 years of the expiry of the lease and after 15 years of taking over the possession, who had not taken any steps to get 'title' over the property, be placed on a better pedestal, paying higher compensation than the compensation payable and paid to similar lessees who had satisfied the conditions of the lease and obtained clear ownership rights over the property well on time ?”

— “Is the Appellant, having satisfied the compensation and has effected 50% more, as a gesture of goodwill and policy, also

offering employment as given to the other lessees (who had actually become the owners) is liable to pay anything more to the Respondents No. 3 to 8 in the WA No.641/2018 ?”

These are the puzzles put forth, to be resolved by this Court in respect of the dispute raised in the above matters.

2. The Appellant in WA No. 641/2018 and the Petitioner in the WPC No.2390/2018 are the same. The challenge in the appeal is against the judgment passed by the learned Single Judge in WPC No.867/2016; whereas the challenge in the WPC is against the State / Authorities in proceeding with steps for acquisition of the same property (which was subject matter of Land Acquisition proceedings earlier, under the Old Act) in terms of the provision of the New Act i.e. the Act, 2013, purportedly in compliance of the direction given by the learned Single Judge in WPC No.867/2016.
3. We heard Mr. K. Raghavacharyulu, the learned counsel appearing for the Appellant / Writ Petitioner (National Mineral Development Corporation Limited) in the above proceedings (for convenience, we refer to them as 'NMDC') and Mr. B.P. Sharma, the learned counsel appearing for the private Respondents who had filed WPC No.867/2016 (referred to as “Claimants” for easy reference). We also heard Mr. Sudeep Agrawal, the learned Deputy Advocate General appearing on behalf of the State / Authorities concerned.
4. The Claimants belong to a remote Village-Nagarnaar of Jagdalpur Tehsil, in the Bastar District in the State of Chhattisgarh. They claim that they /

their respective predecessors were owners of the land having an extent of above 5 acres each in Khasra Nos. 85/1 (part) and 130/1 (part) or in 376/1 (part) and 737/1 (part) of the above Village / Tehsil / District. It is their case that, in connection with the setting up of Greenfield Integrated Steel Plant in Nagarnaar by the NMDC, the Claimants were divested from their lands without paying any Compensation, Rehabilitation and Employment in the Plant. On the basis of some legal advice obtained to them in the year 2015, they preferred some application before the Revenue Authorities for demarcation of their lands, as they were not able to *prima facie* establish that they were actually divested of their respective lands. Demarcation was not done by the Revenue Authorities holding that the respective lands had already been acquired; that the project work of the NMDC was going on full swing and that there were no boundary marks left on the spot. This fact is sought to be supported by producing Annexure-P/2 (collectively).

5. It was conceded by the Claimants that their lands were included in the Nagarnaar Project of the NMDC, who had already constructed boundary walls and hence that the Claimants could not have access to their fields where they or their ancestors were carrying on agricultural activities at one point of time (para 8.5 of WPC 867/2016). In such situation, the Claimants contended that their 'dues' might be provided to them, although they cannot be compensated even in terms of money and rehabilitation, as they were satisfied with the resources available to them and their predecessors (para 8.6 of WPC 867/2016). In Ground 'C' raised in support of the petition filed before this Court, the Claimants

contended that, the land possessed by the Petitioners / their predecessors were the only source of their livelihood which have now been included within the boundaries of Nagarnaar Steel Project of NMDC at the instance of the 1st Respondent / State and certain benefits, for which they are entitled for alike other similarly situated persons, had not been conferred on them. It has been contended in Ground 'D' of the writ petition filed by them that, besides the payment of compensation, rehabilitation and job guarantee were the allurements which have been given to the persons like the Claimants, but the NMDC and the State have not discharged their obligation in this regard and that the Claimants stand marginalised. It was in the said backdrop, that the WPC No. 867/2016 was filed by them with the following prayers :

- "10.A. A writ and/or an order in the nature of writ of mandamus do issue calling for the record from the respondent authorities pertaining to the petitioner's case for its kind perusal.
- B. A writ and/or an order in the nature of writ of certiorari do issue directing the respondent authorities either to call upon them to restore the petitioners' respectively lands in original state since acquired illegally without payment of compensation and providing rehabilitation & employment etc. or direct the respondent concerned to take steps for measurement, payment of compensation accordingly at the prevailing market rate, rehabilitation and providing job to one of the petitioners' respectively family members as per the rehabilitation policy and all other benefits for which the petitioners are entitled for in the facts & circumstances of case.
- C. Any other relief which this Hon'ble Court may deem fit in the facts & circumstances of case."
- D. Cost of the petition may also be awarded."

6. The claim was resisted from the part of the NMDC / State. It was contended by the 1st Respondent / State that the impugned order (Annexure-P/2) of rejection passed by the Naib Tehsildar, Jagdalpur on 05.02.2016, if aggrieved, had to be challenged availing the alternate remedy under the LRC, 1959 before the District Collector. Remedy available under Section 44 of the LRC, 1959 was also pointed out in the return filed by the State. It was contended that no objection or claim whatsoever was preferred by the Claimants at the relevant time, when the property was acquired and handed over to the NMDC in the year 2001. The State contended that the Claimants had not come with clean hands and no document had been produced to prove their title. It was also pointed out that, if the land was divested without authority, the Claimants should have filed an application under Section 89 of the LRC, 1959 before the SDO to correct the errors, if any. The inordinate delay of more than “two decades” in approaching the Court was also pointed out, stating that no record was available after 1992 to establish that the land was under the ownership of either the Claimants or their predecessors in interest. The nature of the 'claim for ownership' of the land and their cause of action for 'demarcation' was pointed out as 'different' and hence, not sustainable. It was stated in paragraph 13 of the return filed by the State that the subject land was recorded as 'grassland' in the revenue record-Patwari Halka No.59, Village Nagarnaar, District Bastar as revealed from Annexure-R-1/1 revenue record of the Khasra pertaining to the year 1994-95. It was added that the contention that some of the Petitioners were having *Rin-Pustika* / Lease, which have not been

cancelled, would require further enquiry; as no document to establish such claim had been appended. The NMDC had also filed return almost in similar lines.

7. The Claimants filed a rejoinder, pointing out their social status as occupying the lowest segment in the society being members of the Scheduled Tribes and residing in remote areas of Chhattisgarh. In paragraph 2 of the rejoinder, the Claimants contended that they were dispossessed and were given to understand that they would be rehabilitated, paid compensation and were also promised to give employment in the Plant to be set up after acquisition; which have been flouted and as such, they might not be denied of the relief, referring to the availability of the 'alternate remedy'. The grievance projected in paragraph 3 of the rejoinder was with reference to the dispossession of the Claimants from the respective lands without paying compensation, while similarly situated persons were given compensation, thus showing an instance of discrimination. It was accordingly, that they sought for granting the compensation and other reliefs which they were entitled.
8. From the above, it is quite evident that neither in the return, nor in the rejoinder, had there been any claim for the Claimants that the subject land was liable to be acquired afresh in terms of the provisions of the Act, 2013, but for the eligibility to get Compensation, Rehabilitation and Employment in the Plant as given to other similarly situated persons in the year 2001.
9. Further statement has been preferred by the 1st Respondent / State on 22.11.2016, giving a detailed chart, stating in the year 1977-78, the lands

in Kh.No. 85/1 and 130/1 were given to the following persons as 'Government lessee' for a period of 'five years' from 1978-79 to 1982-83; as given in paragraph 6, which is extracted below :

"6. It is submitted that in the year 1977-78, by decision in revenue case no. 8/A-19(1)/ 77-78, order dated 14/06/1978, the lands were given to the following persons as government lessee, for the period of the year 1978-79 to 1982-83, details of which are given herein below :-

No.	Khasra no. & area in hect.	Name of land holder
1.	85/1 Ka, 2.023	Sudman S/o Sukhdas Lohar
2.	81/1 Ka, 2.023	Chnigadu S/o Somaru Bhatra
3.	From 130/1, 2.023	Bharsai S/o Sonu Bhatra
4.	From 130/1, 2.023	Vidhya S/o Antu Bhatra
5.	From 130/1, 1.619	Hastu S/o Kamlu Mahara
6.	From 376/Ka, 2.023	Sampat S/o Rupdhar Bhatra
7.	From 737/1, 2.023	Mano S/o Cheragu Bhatra
8.	From 737/1, 1.214	Shatrughan S/o Nathu Panka

Reference is also made to the term 'Government lessee' defined under Section 2 (h), read with Section 181 of the LRC, 1959. It was further pointed out that after the settlement proceedings of year 1931-32, the next settlement proceedings were done in the year 1991-92. Various works at ground level including survey of all the lands concerned, field to field survey informing all the landowners about the settlement through various modes including public announcement etc. for the Village

'Nagarnaar' are mentioned. It is pointed out that the Claimants, for the reasons best known to them, remained oblivious and did not participate in the settlement proceedings of 1991-92. On conclusion of the said settlement proceedings, the aforesaid detailed lands were registered as 'Government land'. Copy of the relevant records pertaining to the relevant Khasra Nos., of year 1994-95, has already been produced as Annexure-R-1/1.

10. An additional affidavit dated 26.11.2016 was filed on behalf of the NMDC. The NMDC stated with reference to relevant records produced (including Annexure-R/1 Section 6 Notification and Annexure-R/2) that a total of 265.42 hectares in the Village 'Nagarnaar', was acquired and allotted to the NMDC, which consisted of 107.71 hectares of Government land and 157.71 hectares of private land. It was also pointed out that the subject land was included in the Khasra Nos. 85/1 and 130/1, whereas no land in Khasra No. 737/1 and 376/1 stated as belonging to the Claimants 6, 7 and 8 was ever acquired for the NMDC Plant by the State and that the NMDC was not in possession of land in the said Khasra Nos. Copy of the Award passed with reference to the private land for the Village 'Nagarnaar' was produced as Annexure-R/3; while details of the compensation deposited by the NMDC before the Land Acquisition Officer were given as Annexure-R/4, to be read along with Annexure-R/5. Copy of the Possession Certificate and the revenue records after effecting mutation in favour of the NMDC have been produced as Annexure-R/6.

11. When WPC No.867/2016 came up for consideration before the learned Single Judge on 30.11.2016, the learned counsel for the Claimants submitted that, at the time of granting lease in the year 1977-78, about 181 persons were granted the lease, as clear from the original records produced before the Court and about 140 of them were granted compensation on acquisition of the land; while about 43 persons were left out. It is submitted on behalf of the NMDC that, as per the relevant records, compensation was paid to '145 persons' who may come within the total of 181 persons who were granted the lease. During the course of hearing, a thorough search was made through the various provisions of the LRC, 1959 and the learned Judge observed that no provision was noted which provided that in the event any cultivator failed to appear before the Settlement Officer at the time of settlement proceedings, his land would either be vested with the Government or that the revenue entries would get changed. In the said context, the learned counsel representing the State made a submission to the effect that (since the 'term of settlement' was atleast for 30 years), the State / SDO, if directed, would conduct a probe under Section 89 of the LRC, 1959 about the Claimants' entitlement to the land, to ascertain whether any change in the revenue entry was needed. It was also submitted that if the Claimants were ejected contrary to the provisions of Section 182 of the LRC, 1959, appropriate orders would be passed under Section 89 and the Claimants would be paid compensation in accordance with law. It was also pointed out that the lands belonging to the Claimants 6 and 7 were not taken over for the Project and hence were outside the acquisition proceedings; by

virtue of which they would be at liberty to occupy their lands and enjoy the same. We find it appropriate to extract 'paragraph 5' of the judgment to ascertain the scope of direction given in the next paragraph.

"5. In course of hearing, learned State counsel would take this Court through the entire chapter of the Code, 1959 dealing with settlement of rent, however, this Court does not find any such provision providing that in the event any cultivator fails to appear before the settlement officer at the time of settlement proceedings, his land would either vest with the Government or the revenue entries would be changed. Learned State counsel has made a very fair statement that since the term of settlement is at least 30 years, which means the settlement is still continuing, if directed by this Court, the State Government or the Sub-Divisional Officer (R), as the case may be, may invoke the provisions contained under Section 89 of the Code, 1959 to make necessary enquiry about the petitioners' entitlement to the land to ascertain as to whether any change in the revenue entry is needed. He would submit that if the petitioners have been ejected contrary to the provisions of Section 182 of the Code, 1959, appropriate orders would be passed under Section 89 and thereafter the petitioners would be paid compensation in accordance with law. Learned State counsel would also state that the land belonging to the petitioner Nos. 6 & 7 have not been taken over for the Nagarnaar Steel Plant and was therefore outside the purview of acquisition proceedings. He would submit that petitioners No.6 & 7 are, therefore, at liberty to occupy their lands."

12. It was in the above context of assurance given to conduct a probe / scrutiny to ascertain, if there was any mistake / error w.r.t. the relevant provisions of the LRC and to give Compensation to the Claimants as well – as paid to the others concerned – that the direction was given by the learned Single Judge to initiate and complete the steps under Section 89 of the LRC, 1959 to correct the errors after affording an opportunity of hearing to the Claimants and thereafter to proceed with the steps to acquire the land, after obtaining orders of the State Government and

shall complete the steps and pay the compensation to the Claimants.

The said direction in paragraph 6 is to the following effect :

"6. Let the authority competent under Section 89 of the Code, 1959 initiate the proceedings to correct errors and complete the same after giving opportunity of hearing to the petitioners, within a period of three months. The Sub-Divisional Officer (R) shall thereafter propose to acquire the land and after obtaining the orders from the State Government shall complete land acquisition proceedings and pay compensation to the petitioners, at the earliest, preferably within the next six months."

It is quite evident from this, that the direction to propose acquisition of the land after obtaining orders of the Government; complete the same and pay compensation was to be effective only if any 'error' was found out in Section 89 enquiry under the LRC involving violation of Section 182 of the Code; once the property was not validly covered by the acquisition proceedings.

13. On considering the above direction in 'paragraph 6', in the light of the context dealt with in 'paragraph 5' and in the light of the specific pleadings raised from both the sides, it is quite clear that there was neither any prayer for the Claimants in the above writ petition that their land was liable to be acquired by pursuing the steps afresh in conformity with the Act, 2013 and pay compensation in accordance with the Act, 2013; nor was there any such direction to have the compensation paid under the New Act, i.e. the Act, 2013. The case projected by the Claimants and the direction given were only to take necessary procedural steps to show the name of the Claimants in the relevant proceedings / revenue records, so as to make them eligible to get compensation for the

subject land as it was paid to the similar lessees on 1978-79 (out of 181 persons, which included 145 lessees to whom compensation was paid as taken note of in paragraphs 3 and 4 of the judgment). The challenge raised against the judgment passed by the learned Single Judge in WA No.641/2018 and the challenge against the proceedings of the Respondent-State to acquire the very same land under the New Act i.e. the Act, 2013, purportedly in compliance of the direction given by the learned Single Judge in the judgment dated 30.11.2016 (sought to be challenged by the NMDC in WPC No.2390/2018) are to be examined in the above circumstances, particularly, in view of the wider claim made by the Claimants in Contempt of Court Case No.66/2018, attributing wilful disobedience on the part of the contemnors, for the reason that compensation payable under the New Act *i.e.* the Act, 2013 has not been paid, but for effecting the payments under the Old Act.

14. Mr. K. Raghavacharyulu, the learned counsel appearing for the NMDC submits that the Claimants had suppressed material facts in the writ petition filed by them, claiming to be “owners” of the lands in question. Absolutely no document / title deed was ever produced to show that they had obtained ownership rights over the property. The learned counsel submits that, after taking earnest efforts and also by resorting to the remedy under Right to Information Act-wherever it was necessary, copies of the relevant testimonials as to the allotment of lands in favour of the Claimants by the Government have been procured and brought on record. The learned counsel submits that the Claimants were issued only 'lease' over the land in question which was for a limited period of

'five years' from 1978 to 1983, as discernible from Annexure-D-1. 'Temporary Patta' given to all the Claimants concerned have been produced; which show that it was only 'Form-E Patta' issued in accordance with the Circular issued in November, 1975. Terms and conditions of the above Patta clearly show under Clause (1), that it was only for a period of '5 years' *i.e.* from 1978 to 1983, while Clause (2) categorically stated that it was only for 'agricultural purpose'. Clause (12) mentions that there will be no right over the trees and that the same shall not be cut without sanction of the Competent Authority. Under Clause (13), it was stipulated that the property had to be cultivated within 5 years and if there was any violation, the Patta would be cancelled. Clause (15) provided that, once the terms and conditions were satisfied, the 'Form-E Patta' would be cancelled and 'Form-A Patta' would be given, conferring the ownership right. The Claimants actually did not effect any cultivation in the land within five years, under which circumstance, the Form-E Patta given to them for the period from 1978 to 1983 expired. No steps were taken by them to satisfy the conditions and to get the 'Form-E Patta' converted into 'Form-A Patta' getting ownership over the land. Absolutely no document was produced before the learned Single Judge as to any cultivation effected by them; any rent / tax that has been satisfied in terms of the Patta issued to them or any other material to show that they had taken necessary steps to get the Form-E Patta to be converted as Form-A Patta to acquire the title. The Claimants were aware of their limitations and hence, absolutely nothing was mentioned with regard to 'Annexure-D/1 Pattas' issued to them (which is a

conditional / Temporary Patta in Form-E). Had they produced the said document, it would have been noted by the learned Single Judge, to hold that no ownership rights had been accrued to the Claimants; under which circumstance, no compensation would have been ordered to be paid. This is a clear instance of suppression of material fact, which amounts to 'fraud' played on the Court and hence the verdict under challenge in the appeal is sought to be interdicted. Reliance is sought to be placed on the verdict passed by the Apex Court in ***Union of India & Others v. Ramesh Gandhi*** reported in **(2012) 12 SCC 476** {paragraphs 24 to 30} to the effect that the judgment obtained by non-disclosure of all necessary facts tantamounts to a judgment obtained by fraud. Reference is made to the verdict passed by the Apex Court in ***Prahlad Pradhan and Others v. Sonu Kumhar and Others*** reported in **(2019) 10 SCC 259** {paragraphs 5 and 6} to explain the scope of ownership right and further in ***State of Andhra Pradesh & Others v. Star Bone Mill & Fertiliser Co.*** reported in **(2013) 9 SCC 319** {paragraphs 17, 18 and 21} to contend that the entries in the Revenue record would not decide the title, but for the possession. The learned counsel submits that 'tenant is always a tenant' and not an owner and in the absence of any document to fix the title on the Claimants, they are not eligible to get any compensation.

15. With regard to the inordinate delay of nearly “two decades” in approaching this Court; that too giving a distorted version claiming ownership of the land, the Claimants have stated that they were not aware as to what happened to their lands, which is now with the NMDC.

The learned counsel for the NMDC submits that the Claimants had approached the Sub Divisional Officer (R) by filing an application dated 03.12.2001. The subject heading of 'paragraph 3' of the said document clearly concedes that the subject land of the Claimants was taken over and was in the hands of NMDC. On receipt of the application from the Claimants, the Tehsildar issued a Proclamation on 08.01.2002, inviting objections, if any, to be submitted before 24.01.2002, with reference to the said application dated 03.12.2001 for effecting correction in the settlement proceedings. The above documents clearly reveal that the Claimants were well aware of the factual position; despite which, they had not raised any claim earlier, seeking for interference, but for approaching this Court virtually "three decades" after expiry of the Temporary lease given in 'Form-E Patta'. It is contended that the proceedings of the Land Acquisition Officer were known to everybody in the Village. Annexure-A/3 Section 4(1) Notification dated 21.06.2001 was published, showing the 'private lands' sought to be acquired as well the 'Government lands' coming within the acquisition proceedings; giving the Khasra numbers. No objection was obtained and later, Section 6 Declaration was effected on 23.07.2001; followed by a Gramsabha conducted on 10.09.2001. As it stands so, everybody in the village was having knowledge of the acquisition proceedings. When similarly situated persons, who also belong to Scheduled Tribe in the area, had complied with the conditions in the Form-E / Conditional Patta, effecting cultivation within five years and had taken prudent steps to get the Form-E Patta converted to Form-A Patta, getting ownership rights; the Claimants alone

were sleeping over the issue; more so since, they did not have a case that they had effected any cultivation and had satisfied the conditions in the 'Form-E Patta' to get the ownership rights. The subject property over which Annexure-D/1 Conditional Patta/Form-E Patta was given to the Claimants, for non-satisfaction of the requirements and by virtue of the expiry of the lease period of five years and further since no steps were pursued by the Claimants in the settlement proceedings of 1992-93, came to be shown as 'grassland' / Government land and got included in Section 4(1) Notification / Section 6 Declaration. On completion of the acquisition proceedings, it has been handed over to the NMDC, who got it mutated, getting necessary entries in the Revenue records and has put up their Plant therein. As a matter of fact, a sum of Rs.2 crore was deposited by the NMDC as advance compensation on 11.02.2000 and the balance sum of Rs.85,41,724/- was deposited on 23.07.2001, based on the intimation given by the Land Acquisition Authorities in respect of the total extent of land acquired and handed over.

16. The NMDC has a contention that, this is not a fit case for invoking the power under Section 89 of the LRC, 1959 as the said provision deals only with the power of the SDO to correct the errors. The term 'correction' presupposes 'error / mistake', whereas in the instant case, there is no error at all; since the Annexure-D/1 Temporary Patta issued to the Claimants for the period from 1978 to 1983 had expired and no further steps were taken to comply with the conditions or to get Ownership Patta in Form-A and further more, when the Claimants had not participated in the settlement proceedings of 1991-92. During the course of hearing,

this Court asked the learned counsel for the State as well the learned counsel for the NMDC as to, if no steps for getting 'Form-A Patta' after five years are taken, will the land automatically go to the Government or whether under such circumstance, the party in favour of whom the Temporary Patta (Form-E Patta) was given could be kicked out ? Similarly, another question was put as to whether there was any provision barring the denial of 'right to retain possession and obtain Form-A Patta' later. A similar doubt has been expressed by the learned Single Judge in 'paragraph 5' of the judgment, that no provision has been shown in the LRC, 1959 to the effect that, in case any cultivator fails to appear before the Settlement Officer at the time of settlement proceedings, would his land either get vested in the Government or that the Revenue entries would be changed automatically.

17. With regard to the above larger question, this Court is of the view that, even though the 'ownership right' had not come to the hands of the Claimants, no 'cancellation' of the Patta was effected, although the tenure was only for a period of 'five years'; 1978-83. Since no automatic deletion of the entries in the revenue records or automatic dispossession is envisaged or substantiated *w.r.t.* the rule position, there was a chance for the Claimants to have the ownership right got conferred on them, subject to the stipulations under the relevant provisions of law. In other words, they were to be deemed as lessees continuing in possession of the property over which Annexure-D/1 Patta was issued in 'Form-E'; though the possession was taken over by the State and handed over to the NMDC categorizing and notifying the said properties as Government

land. Since the lease of land was given by the Government as a matter of policy, with intent to promote the well being of the beneficiaries, who belong to lower strata of the society, enabling them to effect the cultivation and to become the owners in the due course; they cannot be non-suited totally, to hold that they had lost all their rights over the property and that the same had automatically got reverted to the hands of the Government.

18. It is brought to the notice of this Court by the learned counsel for the NMDC that, after passing the verdict by the learned Single Judge in WPC No.867/2016, further steps were pursued by the Competent Authorities. Accordingly, Annexure-R-2/1 dated 31.05.2017 was issued from the Office of the District Collector to the NMDC, computing the compensation payable to the eligible Claimants in WPC No.867/2016. This was immediately satisfied by the NMDC, as borne by the Annexure-R-2/2 covering letter dated 28.09.2017, effecting deposit of the amount due, which included the Compensation for the land, Interest payable, Solatium and over & above all; 50% of the compensation being paid extra, as a matter of gratis and gesture of goodwill from the part of the NMDC to all the 'land owners'. Proof has also been produced, showing disbursement of the above amounts to the Claimants concerned in this regard, as part of Annexure-A/4 (page 71 to 93)
19. The fact that the Claimants had approached the Revenue Authorities in the year 2001/2002 for entering their names in the Revenue records is disclosed from the copy of proceedings before the SDO(R) brought on record. Several opportunities were given by the Revenue Authorities to

produce the title documents for effecting the correction and it was only on their failure to turn up and produce the same, that the application of the Claimants was rejected, which fact has been suppressed in the writ petition.

20. After accepting the compensation paid by the NMDC, on the basis of the computation effected by the State/Authorities, the Claimants have chosen to take a somersault and have filed Contempt of Court Proceedings bearing No.66/2018 before this Court, alleging wilful disobedience to the judgment passed by the learned Single Judge in WPC No. 867/2016, insofar as compensation was not paid in accordance with the terms of the Act, 2013 (which is stated as still pending in view of the pendency of Writ Appeal and the interim stay granted by this Court). As mentioned already, WPC No.867/2016 was never filed by the Claimants for challenging the earlier acquisition proceedings under the Old Act and no relief was sought for to have the acquisition proceedings started afresh under the New Act 2013; but for the prayer to grant the compensation as paid to others, in the locality to avoid discrimination. Similarly, no such direction was ever given by the learned Single Judge to conduct the acquisition proceedings afresh in terms of the Act, 2013. It was only on filing of the Contempt Proceeding as above, that the State/ Authorities apparently got scared and proceeded to take steps under the New Act i.e. the Act, 2013 issuing a fresh Notification under Section 11 of the Act, 2013 by way of Annexure-P/1 dated 04.07.2018 and Annexure-P/2 dated 25.06.2018 (Memo issued by the SDO(R) to the effect that the land would be acquired under the New Act); which are put to challenge in

WPC No.2390/2018.

21. The properties allotted to the Claimants as per Anneuxre-D/1 Temporary / Form-E Patta which was in Khasra No. 85/1 and 130/1 are now situated under Khasra Nos. 1631 (17.32 hectares) and 1843 (12.02 hectares), which were categorized by the Government as grass type Government land, also constructing road and was transferred to NMDC accordingly; as discernible from paragraph 5 of Annexure-R/2 dated 25.09.2001 passed by the Tehsildar, Jagdalpur. The said proceedings were confirmed by the District Collector as Annexure R/3 order dated 28.09.2001. It was accordingly, that the Collector required the NMDC to satisfy the amount due, vide proceeding dated 04.10.2001. The amount due, as intimated by the District Collector, was accordingly satisfied by the NMDC on 25.10.2002 vide Annexure-R/4 (after giving credit to a sum of Rs. 2 crores already deposited as advance compensation). The learned counsel submits that the Tehsildar's report, as confirmed by the District Collector, is an unimpeachable document. In the said circumstance, in view of the several disputed questions of facts, the WPC No.867/2016 itself was not maintainable and could not have been entertained by the learned Single Judge; more so, when much public money is involved; submits the learned counsel.
22. It is pointed out by Mr. B.P. Sharma, the learned counsel appearing for the Claimants that the delay in filing the writ petition cannot bar the way of the Claimants to get the compensation in respect of their property. Reliance is sought to be placed on the verdict passed by the Apex Court in ***Tukaram Kana Joshi and Others v. Maharashtra Industrial***

Development Corporation and Others reported in ***(2013) 1 SCC 353*** {paragraphs 20 to 22}.

23. Here, the question is not with reference to the mere delay. It is more with reference to the 'nature of the claim' put up by the Claimants contending that they were having 'ownership rights' over the property in question; more so when no document was ever produced to show the title, but for referring to some steps taken before the Revenue Authorities to get their names entered into the revenue records. The Claimants also did not plead or produce Annexure-D/1 'Form-E Patta' issued to them for a period of 'five years', with various conditions incorporated therein and the need to have it got converted as 'Form-A Patta' for obtaining ownership rights, once the conditions were satisfied including by way of cultivating 75% of the land in 5 years from the date of granting the lease. Non mentioning of the above factual aspect and non-production of the above documents and the absence of any pleading as to the fact that they had approached the Revenue Authorities way back in the year '2001' to get the Revenue records corrected, cannot but be deprecated. However, the question is, whether this is enough to set aside the judgment passed by the learned Single Judge directing to take necessary steps (to make available the compensation to the Claimants, if eligible, after scrutiny under Section 89 of the LRC) as mentioned above.
24. As mentioned already, there is no dispute to the fact that properties were allotted to the Claimants by the Government by way of Temporary Lease for a period of 'five years' from 1978 to 1983; issuing 'Form-E Patta' (Annexure-D/1), stipulating that they could claim ownership rights once

the conditions were satisfied in five years. It is true that no proceedings have been filed to the effect that the Claimants have satisfied the conditions and had claimed ownership rights or that there was any denial by the Authorities in this regard. In the said circumstance, the rights, if at all any, could only be "as a lessee" who was given the possession and not as an owner of the land; though there was a chance to have the ownership rights conferred, once the requirements were satisfied though belatedly-if permitted by the Government. This is more so since, no provision is brought to our notice that the property would have automatically gone back to the hands of the Government without passing any order of cancellation in terms of the lease or the provisions of the LRC, 1959. Considering the fact that the Claimants belong to the lowest strata in the Society, being members of Scheduled Tribes, living in remote areas in the District Bastar, this Court is of the view that the Claimants were to be treated similarly as those who were given similar lease in 'Form-E Patta' earlier and who became owners of the properties by getting the Patta converted as 'Form-A'. In the said circumstance, the compensation worked out and intimated by the District Collector, vide proceedings dated 31.05.2017 and the satisfaction of the amount by the NMDC by effecting deposit and disbursing the amount is not liable to be annulled; since the direction given by the learned single Judge as per judgment dated 30.11.2016 was purely based on the submissions made by the learned counsel, as noted in 'paragraph 5', with regard to the proceedings to correct the Revenue records, if needed and to make available the compensation to the Claimants as well. Insofar as there

was no direction to have the acquisition proceedings pursued afresh in terms of the New Act i.e. the Act, 2013 and to pay compensation accordingly (particularly when no such pleading or prayer was raised in the WPC No.867/2016, but for praying for similar treatment as given to the others ruling out the element of discrimination), this Court finds that the NMDC can't be heard as aggrieved against the judgment in WPC No. 867/2016 passed by the learned Single Judge.

25. The issue can be approached from a different angle as well. Nature of allotment of land by the Government to the lessees including the Claimants way back in the year 1978 was alike, giving Form-E Patta / Temporary Patta as granted to all the 181 persons; subject to exactly similar conditions. Many of such lessees effected the cultivation over 75% of the property and satisfied the requirement under the Temporary Patta; whereby they got it converted as 'Form-A Patta', getting ownership rights. No such effort was taken by the Claimants herein by effecting the cultivation or complying with the terms and taking necessary steps to get the ownership rights over the property. Even the issuance of Temporary Patta is not disclosed in the writ petition, as noted already. That apart, when they knew about the categorization of the lands as 'Government land' in the Revenue records and sought to effect the corrections by making their names / entries by filing an application dated 03.12.2001 before the Revenue Authorities, which ultimately came to be rejected for non-prosecution, there is no proper explanation in not taking any further steps and in sleeping over the issue for more than two decades. They chose to approach this Court only in the year 2016 (by filing WPC No.

867/2016) claiming similar benefits by way of Compensation, Rehabilitation and Employment, as given to such other persons in the locality and avoid the element of discrimination. The only explanation is that they were illiterate Scheduled Tribes living in remote village; which is a factor equally applicable to other similar lessees to whom Temporary Patta was given (in Form-E) and who complied with the terms and got it converted as 'Form-A' Patta, obtaining ownership rights. If the version of the Claimants, as put forth by learned counsel, that they are entitled to get compensation under the New Act i.e. the Act, 2013 is accepted, it will result in an anomalous situation, where citizens abiding the law like the 145 persons, who satisfied the conditions of the Temporary Patta and obtained ownership rights would stand conferred with lesser benefits under 'Old Act', whereas the Claimants who did not satisfy the conditions in the Temporary Patta and had not obtained ownership rights may have to be offered higher benefits under the New Act; despite their lapses, faults and inaction / lethargy. This will give premium to the wrong-doers for their lapses, which will not be proper or justifiable. More so, when no such pleading was ever there in WPC No.867/2016, nor is there any direction given in this regard by the learned Single Judge while passing the judgment in WPC No.867/2016. The said judgment can only be read and understood as having directed the Respondents based on the context revealed from paragraph 5, to conduct an enquiry under Section 89 for correction of entries / mistakes in the relevant records if needed and to enable the Claimants to get compensation and such other benefits as paid to their counter parts and nothing more.

26. In view of our finding that there were no pleadings or prayers in WPC No. 867/2016 and there was no direction given by the learned Single Judge while passing the judgment dated 30.11.2016 in WPC No.867/2016 to conduct the land acquisition proceedings afresh and pay the compensation under the New Act i.e., the Act, 2013, the subsequent proceedings issued by the SDO as per Annexure-P/2 dated 26.06.2018 and the Section 11 Notification under the Act, 2013 by the Land Acquisition Authority vide Annexure-P/1 dated 04.07.2018 are not liable to be sustained. They stand set aside and WPC No. 2390/2018 filed by the NMDC stands allowed.
27. However, another question may be relevant to be considered in this context. It is true that the Claimants approached this Court only in the year 2016, although the subject property was handed over by the Acquisition Authorities categorizing it as Government land to the NMDC in the year 2001. Though the Form-E Patta (Annexure-D/1) was only for a period of 'five years', if at all there was any violation, it could have been cancelled, which has not been done. Since it was stipulated that after 10 years, the ownership rights could be claimed subject to satisfaction of the requirements therein and further since settlement was stated to be for a minimum period of 30 years (as noted by the learned Single Judge), there was of course a chance for becoming the owners of the property, getting title, which is not possible now, as it was part of the acquisition proceedings under the Old Act and handed over to the NMDC, who has put up their Plant therein. If the properties were liable to be compensated and if it was disbursed at that point of time (when

compensation was released to other similarly situated persons), they could have utilized the same in a better manner. The liability to satisfy the compensation pursuant to judgment passed by the learned Single Judge, having been accepted and the requisite deposit having been made, the NMDC cannot turn back and raise a challenge against the verdict. At the same time, the NMDC can't be penalised to undergo the ordeal under the New Act of 2013, for no fault on their part; when nobody else than the Claimants can be blamed for the inordinate delay in putting forth the claims. Similarly, the NMDC can't be let to have unlawful gains, which, otherwise, will be detrimental to the policy decision taken by the Government in giving lease to the poor village dwellers to have the lease and get in cultivated and converted as 'ownership land'. As such, it is necessary to strike a balance.

28. In the said circumstance, to meet the interest of justice, we find it appropriate to direct the NMDC / State to provide interest @ 12% per annum on the compensation payable to the eligible Claimants from 2001 (when similar compensation was paid to similarly situated persons) till the date of deposit made in the year 2017. This shall be worked out by the Acquisition Authorities and informed to the NMDC within one month, whereupon the amount due shall be deposited within a further period of one month, which in turn shall be disbursed to the Claimants, without any delay.
29. With regard to the other benefits payable, particularly, by way of Employment, it is stated that steps are in progress and that Police Verification is going on. It is also pointed out that in the case of

Claimants by name Kapil Das, S/o Late Shatruhan Das, no land was acquired from him and hence there is no question of any employment assistance. Similarly, the person by name Sampat, S/o Rupdhar, who was originally shown in the party array of the Petitioners, was subsequently deleted by the learned Single Judge when the WPC No.867/2016 was pending. Among the remaining Claimants, in the case of the Claimant by name Mangal Dei, Wd/o Mano, there is no eligible person in the family for getting appointment and as such, it is stated that the steps to grant employment assistance are being considered only in the case of the other Claimants. This shall be finalized taking appropriate steps and offering employment to the eligible persons as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment.

30. In the net result, the WPC No.2390/2018 stands allowed, however casting liability to pay interest on the Compensation as mentioned above and Writ Appeal No. 641/2018 stands dismissed.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge