

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 423 of 2020**

(Arising out of order dated 05.10.2020 passed by the learned Single Judge in WPC No. 2207 of 2020)

1. Puriram Kashyap S/o Late Shri Bhuluram, Aged About 50 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
2. Kishan S/o Shri Gangaram, Aged About 52 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
3. Nandlal S/o Late Shri Janiram, Aged About 28 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
4. Smt. Bhagvati Yadav W/o Shri Uderam, Aged About 60 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
5. Premlal Yadav S/o Shri Uderam, Aged About 45 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
6. Shankar Lal Yadav S/o Shri Uderam, Aged About 36 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
7. Birbal Kurmi S/o Late Shri Tikaitram, Aged About 67 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
8. Mangloo S/o Late Shri Dukhiram, Aged About 49 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
9. Gendram S/o Shri Panchram, Aged About 82 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
10. Shankar Lal S/o Shri Aagarsai, Aged About 62 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
11. Bisahu Kurmi S/o Late Shri Hiranand, Aged About 66 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
12. Ramnath Bareth S/o Late Shri Gokul, Aged About 81 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
13. Manharan S/o Ramsai, Aged About 56 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
14. Ratan Bai W/o Late Shri Radheshyam, Aged About 62 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671

15. Ganeshram S/o Shri Dauram, Aged About 51 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
16. Jeetram Bareth S/o Ramnath, Aged About 52 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
17. Tirithram Rathore S/o Late Shri Bedram, Aged About 42 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
18. Smt. Mandodari Bai W/o Shri Ganga Prasad Aged About 54 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
19. Santosh Kumar S/o Dhaniram, Aged About 40 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
20. Smt. Basanti W/o Shri Gorelal, Aged About 51 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
21. Dwarika Prasad Dhivar S/o Late Shri Chhedulal, Aged About 42 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
22. Vinod Kumar Yadav S/o Late Shri Ramratan, Aged About 32 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
23. Chaitram S/o Shri Dujeram, Aged About 28 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671
24. Kushal S/o Late Shri Ashok Kumar, Aged About 23 Years R/o Village And Post - Kosmanda, Tahsil - Champa District - Janjgir - Champa Chhattisgarh. 495671

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Versus

1. State of Chhattisgarh, Through - Secretary Department of Revenue And Disaster Management Mahanadi Bhavan, Mantralaya, Naya Raipur, Chhattisgarh.
2. Competent Authority (Land - Acquisition) And Sub - Divisional Officer (Revenue), Champa, District - Janjgir - Champa, Chhattisgarh.
3. Collector, District - Janjgir - Champa, Janjgir - Champa, Chhattisgarh.
4. National Highway Authority of India, Through Project Director, Project Implementation Unit Korba, District - Korba, Chhattisgarh., District : Korba, Chhattisgarh
5. Union of India, Through - Secretary, Ministry Of Road Transport And Highways Transport Bhawan, 1, Parliament Street, New Delhi-110001, District : New Delhi, Delhi

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For Appellants	: Shri Yogesh Chandra Sharma and Shri Govind Ram Miri, Advocates
For Respondents No. 1 to 3/State	: Shri Ashish Tiwari, Government Advocate.
For Respondent No. 4	: Shri Mayank Kumar, Advocate on behalf of Shri Dheeraj Wankede, Advocate.
For Respondent No. 5/Union of India	: Shri Ramakant Mishra, Assistant Solicitor General

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board

Per Parth Prateem Sahu, Judge

12.03.2021

1. Challenge in this appeal is to the order dated 05.10.2020 passed in WPC No. 2207 of 2020 whereby the learned Single Judge disposed of the writ petition filed by the Appellants with a direction to approach the Additional Commissioner in terms of Section 3G (5) of the National Highways Act, 1956 (in short 'the Act, 1956'). It was further directed that the proceedings filed before the Additional Commissioner to be decided preferably within a period of '60 days' from the date of receipt of the application of the Petitioners.

2. Facts relevant for disposal of the appeal, are that, Appellants are resident of Village Kosmanda, District- Janjgir-Champa (C.G.). Land acquisition proceedings were initiated under the Act, 1956 and after conclusion of the proceedings, Land Acquisition Officer i.e. Sub Divisional Officer (Revenue) Champa, District-Janjgir Champa has passed an Award on 15.09.2018 in Land Acquisition Case No.14/A-82 year 2017-2018 of Village Kosmonda. The Appellants' lands have been mentioned in the table appearing in paragraph-4 of the Award at Sl. Nos. 5, 8, 11, 13, 16, 22, 26, 27, 28, 30, 31, 33, 34, 38, 40 and 43. The Appellants aggrieved by the quantum of compensation awarded, filed writ petition with the following prayers:

“10.1 It is prayed that this Hon'ble Court may kindly be pleased to call for the entire records pertaining to land acquisition case No. 14/A-82 year 2017-2018 and 2018-19

Village-Kosmanda, Tahsil-Champa, District-Janjgir-Champa (C.G.) from respondent No.2 for perusal of this Hon'ble Court.

10.2 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ commanding the respondents to revise the amount of compensation, which computed in Award dated 15.09.2018 passed by the respondent No.2 in land acquisition cases No.14/A-82 year 2017-18 of village-Kosmanda.

10.3 That, this Hon'ble Court may further kindly be pleased to issue an appropriate writ commanding the respondents to use multiple factor 2 (Two) by which the market value is to be multiplied for determination of Compensation as it has been done in similar cases, by applying the suitable notification applicable in this regard.

10.4 That this Hon'ble Court may also, kindly be pleased to issue an appropriate writ commanding the respondents to reassessment of the market value of the acquired property either @ Rs.2780/- per sq. meter equally to all, without any restrictions to extent of area acquired Or @ 2780 per sq. meter to extent of area of 506 sq. meter + @ Rs.30,05,000/- per hectare for remaining part of acquired land (acquired in excess of 506 sq. meter) computed together. So that the compensation to acquired land of greater extent should not be less than acquired area of lesser extent of area.

10.5 That, this Hon'ble Court may kindly be pleased to set aside the Award dated 15/09/2018, which is unjust, unfair and bad in law.

10.6 That, this Hon'ble Court may kindly be pleased to command the respondents to pay interest on revised compensation @ 12% as provided in section 69 (2) of the Act, 2013.

10.7 Any other relief/reliefs, which this Hon'ble Court may think fit and proper in the facts and circumstances of the case with the cost of the petition"

3. When the matter came up for hearing before the learned Single Judge, while taking into consideration the provisions of the Act, under which the, Land Acquisition proceedings were initiated i.e. National Highways Act, 1956, relegated the Petitioners to approach the Additional Commissioner under Section 3G (5) of the Act, 1956.
4. Shri Yogesh Chandra Sharma and Shri Govind Ram Miri, the learned counsel appearing for the Appellants submit that the issue raised by the Appellants has already been considered by this Court in WA No. 07 of 2019 and the Petitioners have also raised an identical issues for consideration, hence, learned Single Judge ought to have decided the writ petition on merits instead of relegating the

Petitioners to approach the other authority, who are poor villagers.

5. Shri Ashish Tiwari, the learned Government Advocate appearing on behalf of Respondents No. 1 to 3 /State submits that the learned Single Judge has rightly taken note of the provisions under Section 3G (5) of the Act, 1956 and directed the Appellants to approach the Additional Commissioner, Bilaspur Division under the Act, 1956. He further points out that under the Act, 1956, it is an Arbitrator who has to decide the issue raised by the land owners with regard to the quantum of amount of compensation. He further pointed out that in earlier order passed by this Court in WA No. 07 of 2019 has considered other issue of guidelines which is not under challenge in this writ appeal.
6. Shri Ramakant Mishra, learned Assistant Solicitor General appearing on behalf of Respondent No. 5 /Union of India and Shri Mayank Kumar, learned counsel for Respondent No. 4 would submit that under the Act, 1956, complete mechanism is provided and hence, Petitioners who are aggrieved with regard to quantum of compensation, has to approach the Competent Authority appointed by the Central Government as Arbitrator, who is the Commissioner / Additional Commissioner of the Division and hence, learned Single Judge has rightly relegated the Petitioners to approach the Competent Authority under the Act, 1956.
7. We have heard the learned counsel for the respective parties.
8. There is no dispute with regard to the Act, under which, lands of the Appellants were acquired. Bare perusal of the relief as extracted above would show that grievance raised by the Appellants are with regard to the quantum of amount of compensation. Under Section 3G (5) of the Act, 1956, the Central Government appoints an Arbitrator for deciding the grievance of either parties with respect to the amount of compensation. It was brought to the notice of this Court that the Commissioner / Additional Commissioner of the Division has been appointed by the Central Government to be 'Arbitrator' to decide the applications filed

challenging the quantum of compensation. The order passed by this Court in WA No. 07 of 2019 has considered the market values based on the guidelines and decided the issue in favour of the Appellants therein.

9. In view of the above, we do not find any infirmity in order passed by the learned Single Judge relegating the Appellants to approach the Competent Authority under Section 3G (5) of the Act, 1956 by filing appropriate application in this regard. Learned counsel for the Appellants submits that three weeks time be granted to the Appellants to file appropriate application before Competent Authority under Section 3G (5) of the Act, 1956. In view of the above submission, we grant liberty to the Appellants to raise their dispute in terms of Section 3G (5) of the Act, 1956 within a period of 'three weeks' from today and the Commissioner / Additional Commissioner to decide the dispute at the earliest preferably within a further period of 'three months' in accordance with law keeping in mind the order passed by this Court in WA No. 07 of 2019.
10. In view of the above, the writ appeal stands disposed of.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge