

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 464 of 2020**

*{Arising out of order dated 28.10.2020 passed by the learned Single Judge in  
Writ Petition (C) No. 2463 of 2020}*

- Veena Singh, Wd/o Late Sukhdev Singh, aged about 60 years, owner of land bearing khasra no 912, 911, 908/1,908/4,908/5,909, village Gatori, R/o Shiv ghat, Sarkanda, Tahsil & District Bilaspur (C.G.)

**---- Appellant****Versus**

1. Union of India, through the Secretary Ministry of Road Transport and Highways, New Delhi, 110001.
2. National Highway Authority of India, through the Chairman, G-5 and 6, Sector 10, Dwarika, New Delhi.
3. Chief Engineer, Public Works Department National Highway Division Raipur, District Raipur (C.G.)
4. Sub Divisional Officer (Revenue) cum Competent Authority, National Highways Bilaspur, District Bilaspur (C.G.)
5. Collector, District Bilaspur (C.G.)
6. Project Director NHAI Project Implementation Unit, Bilaspur (C.G.)
7. State of Chhattisgarh, Through Secretary Department of Revenue Mahanadi Bhawan, Naya Raipur (C.G.)

**---- Respondents**


---

|                      |   |                                                                                                         |
|----------------------|---|---------------------------------------------------------------------------------------------------------|
| For Appellant        | : | Shri Sushobhit Singh, Advocate.                                                                         |
| For Respondent No. 1 | : | Shri Tushardhar Diwan, Advocate appears on behalf of Shri Ramakant Mishra, Assistant Solicitor General. |
| For Respondent/State | : | Shri Vikram Sharma, Deputy Govt. Advocate.                                                              |

---

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

**Per P. R. Ramachandra Menon, Chief Justice**

**11.01.2021**

1. Dismissal of the writ petition filed by the Appellant for granting enhanced compensation, pursuant to acquisition of land, based on the award passed more than 2 years ago made the Appellant to file this appeal. Contention is that the award passed by the Authorities is quite mechanical merely with reference to the market value fixed by the Authorities for fixing the stamp value which does not reflect the actual market value.
2. Heard Shri Sushobhit Singh, the learned counsel appearing for the Appellant, Shri Tushardhar Diwan, the learned counsel for Respondent No.1 and Shri Vikram Sharma, the learned Deputy Government Advocate for the State.
3. The summary of the factual matrix is that, the property belonging to the Appellant was acquired for the construction of 'National Highways' and an award was passed on 01.07.2018, based on the relevant norms. The compensation was calculated, reckoning a higher rate in respect of smaller extents and a lower rate fixed for the larger extents, based on the value fixed by the Authorities for computing the compensation. There is no dispute to the fact that the amount due under the award has already been satisfied.
4. It is the case of the Appellant that, she came across Annexure A/3 judgment passed by this Court later on 06.12.2019 declaring that the value fixed by the Authorities concerned for computation of stamp duty

need not reflect the actual market value (paragraph 28). The various points/questions raised in the opening paragraph of the said verdict were answered and the award passed by the Departmental Authorities and the judgment passed by the learned Single Judge were set aside directing the Competent Authority to rework the compensation payable to the Appellants with reference to the undisputed facts like the nature and credentials of the property as compared to other similar lands, though of smaller extent and fix it by separate slabs with reference to different rates for different extents and add them together and grant all consequential benefits within the time as stipulated therein. Contention is that the Appellant is also entitled to get similar relief as prayed for in the writ petition. The prayers in the writ were to the following effect:

“10.1. That, this Hon'ble may kindly be pleased to issue appropriate writ, order, direction and quash the impugned award dated 1.07.2018 (Annexure P/1) so far as it relates to the lands of the petitioner.

10.2. That the respondents may be directed to redetermine the compensation and market value as per the principles laid down by the Honourable Court in the Division Bench judgment in Writ Appeal No. 07 of 2019 Ashutosh Agrawal Versus Union of India dated 6.12.2019.

10.3. That, this Hon'ble may kindly be pleased to issue appropriate writ, order, direction, directing the respondents to determine the market value afresh strictly in accordance with the RFCTLARR Act 2013 relating to market value by taking into account all the relevant factors such as area, locality and the petitioner may be further granted the benefits of interest solatium and other factors.

10.4. That, this Hon'ble Court may kindly be pleased to direct the respondents to grant the benefit of multiplication factor of TWO for rural areas as per Section 26(2) r/w Schedule-1 of the RFCTLRR Act, 2013.

10.5. That, this Hon'ble Court may kindly be pleased to grant any other relief as it may deem fit and appropriate.”

5. The grievance of the Appellant/writ Petitioner was considered by the learned Single Judge who observed that the claimant had approached the Court virtually after 2 years and 3 months of passing the award on 01.07.2018; by virtue of which there was an inordinate delay. It was also observed that there was no grievance for the Appellant/writ Petitioner at any point of time with regard to the fixation of the compensation and the award passed by the Authorities concerned. The learned Single Judge observed that various remedies were available to the Appellant/writ Petitioner and if she was not satisfied of the quantum of compensation ordered she could have invoked the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred as 'the Act, 2013'), which was a complete code by itself providing a mechanism for determining the compensation and remedies available to a person who is not satisfied with the award. It has been noted in the paragraph 5 of the said verdict that, it was open for the Appellant/writ Petitioner to have approached the Collector and sought for a reference in terms of the Section 64 of the Act, 2013, which was not pursued by the Appellant/writ Petitioner. It was further observed in paragraph 6 that, it was still open for the Appellant/writ Petitioner to have availed the remedy in terms of Section 3G(5) of the National Highways Act, 1956, by moving an application to the 'Arbitrator' appointed by the Central Government to determine proper compensation. Observing that the Appellant/writ Petitioner had accepted the compensation without any protest and hence could not turn around after 27 months, interference was declined holding that she cannot pursue the matter merely on the basis of a judgment passed in another case, in the absence of any subsisting dispute.

6. The learned counsel for the Appellant submits that the learned Single was not correct in non-suited the Appellant merely with reference to delay and seeks to place reliance on the verdict passed by the Apex Court in ***Vidya Devi vs. State of Himachal Pradesh & Others*** reported in **AIR 2020 SC 4709**.
7. We have gone through the judgment sought to be relied on by the learned counsel for the Appellant. It is seen that it was in respect of a case, where the Appellant widow, who is an illiterate person coming from a rural area, was deprived of her private property by the State without resorting to the procedure prescribed by the law. In fact, the Appellant therein was divested of her right to property without being paid any compensation whatsoever for over half a century and hence the cause of action therein was a continuing one. Further, it was admitted by the State that the land was taken over without initiating any acquisition proceedings and any procedure known to law, which made the Apex Court to observe that delay in latches cannot be raised in such circumstances involving 'continuing cause of action' or in the circumstance sought the judicial consensus of the Court. It was accordingly that the extraordinary jurisdiction of the Apex Court under Article 136 read with Article 142 of the Constitution was exercised and the State was directed to pay compensation to the Appellant.
8. The above case does come to the rescue of the Appellant herein. Firstly, for the reason that the property of the Appellant herein was acquired strictly in accordance with the relevant provisions of law. Secondly, after passing the Award, admittedly, no protest of any nature was raised by the Appellant with regard to the quantum of compensation payable for the land in question. Thirdly, no reference was ever sought to be made in

terms of the Act, 2013, nor was there any move by filing an application before the Arbitrator under Section 3G(5) of the National Highways Act, 1956 as observed by the learned Single in paragraphs 5 and 6 of the judgment. In view of the undisputed facts, the Appellant cannot equate herself to be treated on par with the Appellant before the Apex Court in ***Vidya Devi's case (supra)***. That apart, the direction given by the Apex Court in the said case is obviously in exercise of the power under 'Article 142' of the Constitution of India, which does not get any binding/presidential value under Article 141 of the Constitution of India.

9. The challenge now raised as to the quantum of compensation awarded is based on the market value of the property to be computed as held by this Court in Annexure A/3 verdict dated 06.12.2019. The contention of the Appellant that the value fixed by the Authorities concerned for fixing the stamp value of the property in respect of transactions of the property is not the actual market value, which actually depends on various circumstances is a law as declared by this Court in Annexure A/3 judgment dated 06.12.2019, the benefit of which is sought to be extended to the Appellant as well.
10. The learned counsel of the Appellant, however, concedes that, it is the same law declared by the Apex Court in ***Union of India vs. Savitri Devi & Another*** reported in **AIR 2017 SC 5834**. Since the law already stood declared by the Apex Court even on the date of passing of Award in the instant case on 01.07.2018, the Appellant cannot successfully contend that she was not aware of the law/situation, as ignorance of law is of no excuse. Virtually, the compensation awarded by the Authorities concerned was accepted without demur and the Appellant has sought to approach this Court by way of some revelation only after an inordinate

delay of 2 years and 3 months. The matter already settled cannot be unsettled, which is the law declared by the Apex Court in ***Bhoop Singh vs. Union of India & Others*** reported in **AIR 1992 SC 1414**. It has been made clear by the Apex Court that a person who was sleeping on arm chair unmindful of his rights and liberties, if any, cannot be extended any relief from the Court as held in ***Rabindra Nath Bose & Others vs. Union of India & Others*** reported in **AIR 1970 SC 470**.

11. In the above context, we are of the firm view that the interference declined by the learned Single Judge is quite proper in all respects and the said verdict is not assailable under any circumstance. No tenable grounds have been raised to entertain this appeal. It is dismissed accordingly.

Sd/-

**(P. R. Ramachandra Menon)**  
**Chief Justice**

Sd/-

**(Parth Prateem Sahu)**  
**Judge**