

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**WA No. 473 of 2020**

{Arising out of Order dated 17/08/2020 passed in Writ Petition(C) No. 1550 of 2020 by the learned Single Judge}

- Fagulal Yadav S/o late Nannhu Ram Yadav, aged about 59 years, R/o Village Kokaditarai, Tahsil and District Raigarh C.G.

-----Appellant/Respondent 6

VERSUS

1. State of Chhattisgarh through Secretary Department of Urban Administration and Development, Mantralaya, Naya Raipur, District Raipur C.G.
2. State of Chhattisgarh through Secretary, Department of Revenue & Disaster Management, Naya Raipur, District Raipur C.G.
3. The Collector, Raigarh, District Raigarh C.G.
4. Land Acquisition Officer/ Sub Divisional Officer (Revenue) Raigarh, District Raigarh C.G.
5. Tahsildar, Raigarh, District Raigarh, C.G.
6. Nagar Panchayat Kirodimal Nagar, District Raigarh C.G. through its Chief Municipal Officer, Ramayan Prasad Pandey S/o Late Shri Ganesh Prasad Pandey, aged about 52 years, R/o Ward No. 12, Kirodimal Nagar, P.S. Kotra Road, Tahsil and District Raigarh C.G.

-----Respondents

For Appellant	: Mr. Anshuman Shrivastava, Advocate & Mr. Prabhat Kumar Saxena, Advocate
For Respondent -State	: Mr. Siddharth Dubey, Dy. Govt. Advocate
For Respondent 6	: Mr. Sarfaraj Khan, Advocate

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

Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per Parth Prateem Sahu, J.

21/01/2021

1. Challenge in this appeal is to the order dated 17.08.2020 passed by learned Single Judge in W.P.(C) No. 1550/2020, prohibiting Respondent 4 ie. Land Acquisition Officer/ Sub-Divisional Officer (Revenue), Raigarh, not to take any coercive steps against the petitioner/ Respondent 6 with regard to execution of award dated 20.08.2019, as long as an application under Section 64 of Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "Act of 2013"), is pending consideration.

2. Mr. Anshuman Shrivastava, learned counsel for the appellant submits that though the appellant has been arrayed as Respondent 6 in writ petition but no notice of writ petition has been issued to appellant and writ petition itself was disposed of on the first date of hearing, adversely, affecting the interest of appellant. He submits that land of appellant was acquired by Respondent 6 without granting any compensation for the purpose of construction of road and drainage. Writ petition was filed and on the basis of direction issued therein, amount of compensation was calculated by Land Acquisition Officer and award was passed. Application, filed under Section 64 of the Act of 2013 before the Collector, came to be dismissed on 13.02.2020 and suppressing this fact, Respondent 6 has filed writ petition and obtained favourable order. Proceeding filed under Section 64 of the Act, 2013 by Respondent 6 is not maintainable.

3. Mr. Sarfaraj Khan, learned counsel for Respondent 6 submits that after passing of award by Land Acquisition Officer in favour of appellant, the Municipal Corporation has filed an application under Section 64 of the Act, 2013 before the Collector but as it was not decided within the prescribed period, Respondent 6 has filed an application under Section 64 of the Act, 2013, directly before the prescribed authority which is pending consideration. Office was vacant and hence, no further proceedings could be initiated and the application under Section 64 of the Act, 2013 is still pending. Respondent 4, while issuing letter Annexure P-1, was pressurizing for deposit of entire amount of compensation awarded by Land Acquisition Officer, hence, Respondent 6 has filed writ petition seeking appropriate direction. There is no suppression of any material fact as alleged by appellant. He also submits that the amount of compensation calculated by Respondent 6 as Rs. 7,93,284/- has already been paid to

the appellant.

4. Mr. Siddharth Dubey, learned Deputy Government Advocate representing the State submits that now the authority under Section 64 of the Act, 2013 has been posted on 28.12.2020. Proceedings on the application filed by Respondent 6 under Section 64 of the Act, 2013 has been started. First proceeding was drawn/ recorded on 13.01.2021 and next date has been fixed as 17.02.2021.
5. At this stage, Mr. Anshuman Shrivastava, learned counsel for appellant submits that if this Court finds that the application under Section 64 of the Act, 2013 to be decided by the appropriate authority under Section 64 of the Act then a direction be issued to conclude the proceeding within time frame, after providing opportunity of hearing to the appellant, and he be permitted to raise all grounds available to him.
6. We have heard learned counsel for the respective parties and also perused the record.
7. Considering the nature of dispute raised in the appeal which is arising out from the award passed by Land Acquisition Officer under the Act, 2013, Respondent 6 being aggrieved by quantum of award has availed remedy available to it under Section 64 of the Act, 2013 which is pending consideration before the appropriate authority. Authority under Section 64 of the Act of 2013 has now been posted on 28/12/2020 and as stated by the learned counsel for State, proceedings have already been started, we find it appropriate to dispose of this appeal with a direction to appropriate authority to conclude the proceedings under Section 64 of the Act, 2013 after affording opportunity of hearing to the appellant and other interested parties within a period of 3 months from the date of receipt of copy of this Order. Appellant will be at liberty to raise all the grounds available to him under the law before the appropriate authority under Section 64 of the

Act, 2013. As it has been brought to the notice of this Court, as also the learned counsel for the appellant that the next date fixed before the appropriate authority under Section 64 of the Act, 2013 is 17.02.2021, appellant may appear before the competent authority and participate in the proceedings.

8. With the aforesaid observation and direction, appeal stands disposed of.

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

Sd/-
(Parth Prateem Sahu)
Judge