IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3583 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Vijay S/o Deorao Patil,
aged 53 years.

3. Smt. Manisha Wd/o Prakash Patil,
aged 40 years.

4. Chaitanya S/o Prakash Patil,
Aged 18 years.

5. Ku. Alka D/o Deorao Patil
(Maiden Name) After marriage
Sau Alka W/o Rajendra Bagade,
aged 50 years.

6. Ku. Nanda D/o Deorao Patil
(Maiden Name) After marriage
Sau. Nanda W/o Gowardhan
Meshram, aged 64 years.

7. Ku. Tulja D/o Deorao Patil
(Maiden Name) After marriage
Sau. Tulja W/o Nitin Gaurkhede,
aged 44 years.

8. Smt. Chandrabhaga Wd/o
Deorao Patil, aged 80 years,
All agriculturist,
All R/o Ward No.3, House
No.267, Bina Sangam, Bina,
Nagpur 441 102.

WITH
WRIT PETITION NO. 3576 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Somnath S/o Wadgu Khode,
aged 63 years.
R/o. Near Renukamata Mandir,
26, Vitthalwadi, Hudkeshwar Road,
Rajapeth, Nagpur - 440034.

WITH
WRIT PETITION NO. 3593 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General Manager, Nagpur
Area, Kasturba Nagar, Jaripatka,
Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Hukumsingh Puransingh Siriya,
Aged Major,
R/o. Ruigunj Maidan, Sant Tukdoji
Nagar, Kamptee, Dist.- Nagpur 441102.

WITH
WRIT PETITION NO. 3571 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Sheikh Chand Jarib - Dead
   i) Sk. Kadir Sk. Chand,
   Major.

   ii) Sk. Sagir Sk. Chand,
   Major.

   iii) Ameena Ajit Pathan,
   Major.

   iv) Naseeba Sk. Hussain,
   Major.

   v) Rasida Sk., Major.

   vi) Madeena Sk. Ismail,
   Major.

3. Sheikh Imam Jarib - Dead

   i) Sk. Mahboob Imam,
   Major.

4. Mangli A. Jumman - Dead
All R/o. Bina, Tah. Kamptee,
Dist. - Nagpur - 441 102.

WITH
WRIT PETITION NO. 3582 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General Manager, Nagpur
Area, Kasturba Nagar, Jaripatka,
Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Malubai Dadarao Mahajan,
aged 51 years,
R/o. Ward No.2, PO : Bina Sangam
Grampanchayat, Tah. Kamptee,
Nagpur - 441102.

WITH
WRIT PETITION NO. 3581 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General Manager, Nagpur
Area, Kasturba Nagar, Jaripatka,
Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Kiranbai W/o Dhansingh Siriya,
aged 57 years, R/o Ruiganj

Maidan, Sant Tukdoji Nagar, Kamptee,
District Nagpur - 441 002.

WITH
WRIT PETITION NO. 3580 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General Manager, Nagpur
Area, Kasturba Nagar, Jaripatka,
Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Bhagwan Kawduji Chikhale,
aged 72 years
R/o Ward No.2, Gram panchayat
Road, Bina, Sangam, Tah. Kamptee,
Dist. - Nagpur 441 102.

WITH
WRIT PETITION NO. 3591 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General Manager, Nagpur
Area, Kasturba Nagar, Jaripatka,
Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Bhullan alias Ramshankar S/o
Kantaprasad Tiwari,
aged 80 years, R/o. MA-22,
Swatik Bhavan, J. A. Road,

Dikshabhumi, Near MIG Colony,
South Ambazari Road, Laxminagar,
Nagpur-440022.

WITH
WRIT PETITION NO. 3572 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General
Manager, Nagpur Area, Kasturba Nagar,
Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Laxman S/o Sadashiv Khode,
aged 75 years
R/o. Behind Chamat Chakki, Plot
No.72, 'Pitruchhya', Adarsha Nagar,
Hanuman Nagar, Nagpur – 440009.

WITH
WRIT PETITION NO. 3594 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General
Manager, Nagpur Area, Kasturba
Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Malubai Dadarao Mahajan,
aged 51 years,
R/o. Ward No.2, PO : Bina

Sangam Grampanchayat, Tah.
Kamptee, Nagpur-441102.

WITH
WRIT PETITION NO. 3595 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General
Manager, Nagpur Area, Kasturba Nagar,
Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Manisha W/o Prakash Patil,
Aged Major,
R/o. Bina, Tah. Kamptee,
Dist.-Nagpur - 441 102.

WITH
WRIT PETITION NO. 3574 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General
Manager, Nagpur Area, Kasturba
Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Tarique Sheikh Sardar,
Aged Major,
R/o. House No.113, Contractor
Colony, Ward No.5, Near
Vishwakarma Hospital,

Khaparkheda, Tah. Saoner,
Dist.-Nagpur - 441 102.

WITH
WRIT PETITION NO. 3578 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General Manager,Nagpur
Area, Kasturba Nagar, Jaripatka,
Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Natthu S/o Mahadev Khode
Aged Major
R/o. Ward No.1, Near Hanuman
Temple, At PO. Bina Sangam,
Tah. Kamptee, Dist.-Nagpur - 441 102.

WITH
WRIT PETITION NO. 3577 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General
Manager, Nagpur Area, Kasturba
Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Arjundas & Company
R/o. Ward No.30,
At Post : Dhawalpur, Tah. Katol,
Dist.-Nagpur - 441 302.

WITH
WRIT PETITION NO. 3573 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee, Office of Tahsildar, Kamptee, District Nagpur.

2. Waman S/o Deorao Kumbhare, aged 53 years, R/o. Ward No.2, New Bina, Bhanegaon, Tah. Kamptee, District Nagpur - 441 102.

WITH
WRIT PETITION NO. 3590 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee, Office of Tahsildar, Kamptee, District Nagpur.

2. Waman S/o Deorao Kumbhare Aged Major R/o. Ward No.2, New Bina, Bhanegaon, Kamptee, Dist.- Nagpur 441 102.

WITH
WRIT PETITION NO. 3575 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General
Manager, Nagpur Area, Kasturba
Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Giridhar Devraoji Kumbhare,
aged major, resident of Ward
No.2, New Bina Bhanegaon,
Nagpur-441102.

WITH
WRIT PETITION NO. 3579 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General
Manager, Nagpur Area, Kasturba Nagar,
Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Hukumsingh Puransingh Siriya
Aged Major
R/o. Ruigunj Maidan, Sant Tukdoji
Nagar, Kamptee,Dist.-Nagpur 441102.

WITH

WRIT PETITION NO. 3585 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee, Office of Tahsildar, Kamptee, District Nagpur.

2. Ramkrushna S/o Awchit Bhadang, Aged Major, R/o. Ward No.1, Near Hanuman Templa, At PO. Bina, Sangam, Tah. Kamptee, Dist.- Nagpur - 441 102.

WITH

WRIT PETITION NO. 3596 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka,Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee, Office of Tahsildar, Kamptee, District Nagpur.

2. Bhagwan Kawduji Chikhale, aged 72 years R/o Ward No.2, Gram panchayat Road, Bina, Sangam, Tah. Kamptee, Dist. - Nagpur 441 102.

WITH

WRIT PETITION NO. 3592 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General Manager,Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :
1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Hukumsingh Puransingh Siriya
Aged Major
R/o. Ruigunj Maidan, Sant Tukdoji Nagar, Kamptee,
Dist.- Nagpur 441 102.

WITH
WRIT PETITION NO. 3600 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General Manager,Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :
1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Gunaji S/o Dashrath Bhadang
Aged Major
R/o. At PO Bina, Tah. Kamptee,
Dist.- Nagpur - 441 102.

WITH

WRIT PETITION NO. 3601 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee, Office of Tahsildar, Kamptee, District Nagpur.

2. Natthu S/o Mahadev Khode Aged Major R/o. Ward No.1, Near Hanuman Temple, At PO Bina Sangam, Tah. Kamptee, Dist.- Nagpur -441102.

WITH

WRIT PETITION NO. 3584 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee, Office of Tahsildar, Kamptee, District Nagpur.

2. Malubai Dadarao Mahajan, aged 51 years R/o. Ward No.2, PO : Bina Sangam Grampanchayat, Tah. Kamptee, Nagpur-441102.

WITH

WRIT PETITION NO. 3599 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee, Office of Tahsildar, Kamptee, District Nagpur.

2. Manikrao J. Gourkhede Aged Major R/o. Ward No.3, Bina Sangam, Bhanegaon, Kamptee, Dist.- Nagpur 441 102.

WITH

WRIT PETITION NO. 3597 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee, Office of Tahsildar, Kamptee, District Nagpur.

2. Zoeb S/o Sadiqbhai Vali, aged 76 years

3. Mohammadbhai S/o Sadiqbhai Vali, aged 62 years,

4. Smt. Fatima W/o Samoon Mamnoon, aged 65 years,

5. Dr. Smt. Nargishbai W/o Shakir Vali, aged 70 years,

6. Dr. Smt. Zulekha W/o Iqbal Daud, aged 68 years,
All R/o. Sadique Building, Mount Road, Sadar, Nagpur-440001.

WITH
WRIT PETITION NO. 3587 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Sunita Bhaurao Chikankar,
aged 50 years
R/o. Bina, Tah. Kamptee,
Dist. - Nagpur 441 102.

WITH
WRIT PETITION NO. 3586 OF 2021

PETITIONER : Western Coalfields Limited through its Area General Manager, Nagpur Area, Kasturba Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Suresh S/o Bhagwan Chikhale
aged 52 years
R/o. Ward No.1, Plot No.30,
Koradi Road, Near Modern
School, Bokara, Shakti Nagar,
Godhani, Nagpur 441 111.

WITH
WRIT PETITION NO. 3588 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General
Manager, Nagpur Area, Kasturba
Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Jagan S/o Punjabrao Bhoyar
Aged Major
R/o. House No.669, Near Water
Tank, Bina Sangam, Tah. Kamptee,
Dist. - Nagpur 441 102.

WITH
WRIT PETITION NO. 3589 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General
Manager, Nagpur Area, Kasturba
Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS : 1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Laxman S/o Sadashiv Khode,
aged 75 years
R/o. Behind Chamat Chakki, Plot
No.72, 'Pitruchhaya', Adarsha
Nagar, Hanuman Nagar,
Nagpur-440009.

WITH
WRIT PETITION NO. 3598 OF 2021

PETITIONER : Western Coalfields Limited
through its Area General
Manager, Nagpur Area, Kasturba
Nagar, Jaripatka, Nagpur-440014.

V E R S U S

RESPONDENTS :

1. Tahsildar, Kamptee,
Office of Tahsildar, Kamptee,
District Nagpur.

2. Vijay S/o Deorao Patil,
aged 53 years

3. Smt. Manisha Wd/o Prakash
Patil, aged 40 years

4. Chaitanya S/o Prakash Patil,
Aged 18 years.

5. Ku. Alka D/o Deorao Patil
(Maiden Name) After marriage
Sau Alka W/o Rajendra Bagade,
aged 50 years.

6. Ku. Nanda D/o Deorao Patil
(Maiden Name) After marriage
Sau. Nanda W/o Gowardhan
Meshram, aged 64 years.

7. Ku. Tulja D/o Deorao Patil
(Maiden Name) After marriage
Sau. Tulja W/o Nitin Gaurkhede,
aged 44 years.

8. Smt. Chandrabhaga Wd/o
Deorao Patil, aged 80 years,
All agriculturist,
All R/o. Ward No.3, House
No.267, Bina Sangam, Bina,
Nagpur 441 102.

Mr. C.S. Samudra, Advocate for petitioner in all petitions
Mrs. S.S. Jachak, AGP for Respondent / State
Mr. M.G. Bhangde, Senior Advocate with Mr. V.V.Bhangde, Advocate with Mr. S.S. Sarda, Advocate for respondents in WP Nos. 3583/2021, 3595/2021, 3594/2021, 3591/2021, 3598/2021, 3597/2021, 3599/2021,
Mr. S.C. Mehadia & Mr. A.S. Mehadia, Advocates for Respondents in Writ Petition Nos. 3582/2021, 3593/2021, 3578/2021, 3589/2021, 3584/2021, 3601/2021, 3600/2021, 3592/2021, 3579/2021, 3575/2021
Mr. O.W. Gupta, Advocate for Respondents in Writ Petition Nos.3571/2021, 3576/2021, 3574/2021, 3572/2021, 3580/2021, 3581/2021, 3588/2021, 3586/2021, 3587/2021, 3596/2021, 3585/2021, 3590/2021, 3573/2021, 3577/2021

CORAM : MANISH PITALE, J.

RESERVED ON : 30/06/2022

PRONOUNCED ON: 16/09/2022

JUDGMENT

Rule. Rule is made returnable forthwith. Heard finally with the consent of learned counsel appearing for rival parties.

2. All these writ petitions raise a common point for consideration, which pertains to the true scope and interpretation of Section 155 of the Maharashtra Land Revenue Code, 1966. The said question is raised specifically in the backdrop of acquisition of lands in question and vesting of such lands in the acquiring body. The petitioner – Western Coalfields Limited (WCL), being the acquiring body, is contending that upon acquisition and vesting of the lands in question, the revenue authorities under Section 155 of the said Code cannot exercise jurisdiction to carry out any correction in the revenue record. The impugned orders passed by the Tahsildar have been directly challenged in these writ petitions, despite availability of alternative remedy of appeal, on the ground that the impugned orders have been passed without jurisdiction.

3. The brief facts leading to filing of the present writ petitions are that the petitioner – WCL acquired lands of the private respondents i.e. the land owners under the provisions of the Coal Bearing Area (Acquisition and Development) Act, 1957 (hereinafter referred to as "Act of 1957"). The lands belonging to the respondent – land owners were acquired for opening new coal mines and accordingly, Notifications were issued under the Act of 1957, in order to initiate and complete the process of acquisition of lands belonging to the

respondent – land owners. The WCL claimed to have acquired the lands and taken possession thereof, at which stage the lands belonging to the respondent – land owners were recorded in the revenue record as non-irrigated lands. This entry in the revenue record did have a crucial bearing on the determination of quantum of compensation, because compensation for irrigated land can be much higher than compensation for non-irrigated land.

4. The respondent – land owners filed applications under Section 155 of the Code. Along with the applications, the respondent – land owners filed certain documents before the respondent – Tahsildar, claiming that the lands were wrongly recorded as non-irrigated lands and that the entry ought to be corrected to irrigated lands. On 11/07/2016, the respondent – Tahsildar passed an order, exercising power under Section 155 of the Code and directed that the lands of the respondent – land owners be recorded as irrigated lands.

5. Aggrieved by the said order of the Tahsildar, the petitioner – WCL filed number of Writ Petitions before this Court. On 15/10/2019, this Court in Writ Petition No. 2474 of 2017 (WCL Vs. Tahsildar, Kamthee and another), held that while passing the aforesaid order dated 11/07/2016, notice was not issued to the petitioner – WCL. This Court

set aside the said order dated 11/07/2016, passed by the Tahsildar, only on the said ground of absence of notice to the petitioner – WCL and directed the Tahsildar to decide the proceedings afresh by granting opportunity to all the concerned parties.

6. Pursuant to the matters being remanded to the Tahsildar, the petitioner – WCL was heard in the proceedings. By orders dated 09/01/2020, the respondent – Tahsildar held that no alteration was required in the aforesaid orders dated 11/07/2016, as a consequence of which the correction of the entry as irrigated lands was upheld.

7. Aggrieved by the said orders passed by the Tahsildar, the petitioner – WCL has filed these Writ Petitions.

8. Mr. C.S. Samudra, learned counsel appearing for the petitioner – WCL in these petitions submitted that the impugned orders passed by the Tahsildar were without jurisdiction, for the reason that once the lands were acquired and they stood vested with the petitioner – WCL, the revenue authorities under the Code had no power or authority to deal with any aspect pertaining to the said lands. It was submitted that equally the respondent – land owners had lost the capacity to file and maintain applications before the Tahsildar under Section 155 of the Code for correction of errors in the entries. It was submitted that

Section 155 of the Code pertained to correction of clerical errors and correction made by the impugned orders was a substantial correction, changing the very nature of the subject lands. According to the learned counsel for the petitioner – WCL, there was no such power available under the said provision with the Tahsildar to make any corrections or any changes in the status of the land from non-irrigated to irrigated. In support of his contention regarding vesting of the lands in favour of the petitioner – WCL and its effect, the learned counsel relied upon judgments of the Hon'ble Supreme Court in the cases of **V. Chandrasekaran and another Vs. Administrative Officer and others** reported in **(2012) 12 SCC 133** and **North Eastern Coalfields Ltd. Vs. Mubarak Ali and others** reported in **(2005) 11 SCC 293**.

9. On the aspect of alternative remedy of appeal available under the Code, the learned counsel appearing for the petitioner – WCL submitted that despite availability of alternative remedy, the writ petitions were maintainable before this Court and for that purpose he relied upon judgments of the Hon'ble Supreme Court in the cases of **Magadh Sugar & Energy Ltd. Vs. State of Bihar and others** reported in **2021 SCC OnLine SC 801**; **Committee of Management and another VS. Vice-Chancellor** reported **2009 2 SCC 630** and judgment of this Court in the case of **Laxman V. Vajage Vs. Collector of Bombay and**

others reported in **2005(1) Mh.L.J. 487**.

10. Since the respondent – land owners had stated before the Tahsildar that in cases of some other similarly placed land owners, the petitioner – WCL had not raised any objection and paid compensation, which was a factor taken into consideration by the Tahsildar, the learned counsel appearing for the petitioner relied upon judgment of the Hon'ble Supreme Court in the case of **R. Muthukumar & Ors. Vs. The Chairman and Managing Director TANZEDCO & Ors. (Judgment and order dated 07/02/2022, passed in Civil Appeal No.1144/2022)**, wherein it was reiterated that there cannot be negative equality i.e. if relief was wrongly granted to certain persons, no right to such relief on the basis of equality could be claimed by similarly situated persons.

11. Mr. M.G. Bhangde, learned Senior Counsel, Mr. S.C. Mehadia, learned Counsel, Mr. O.W. Gupta, learned Counsel appeared on behalf of the contesting respondents i.e. land owners / claimants. The learned counsel submitted that the impugned orders passed by the Tahsildar under Section 155 of the Code could not be said to be without jurisdiction, because a proper reading of the said provision would show that if an error was noticed by a Revenue Officer, clerical or otherwise, it could be corrected under the said provision at any time, subject to

notice to the relevant parties. It was submitted that in the present case, after the matters were remanded to the Tahsildar, proper notice was indeed given to the petitioner – WCL and after proper hearing in the matter the impugned orders were passed. On this basis, it was submitted that the impugned orders could not be said to be without jurisdiction and that, therefore, alternative remedy of preferring appeal under the Code was available to the petitioner – WCL and that on this alone ground the petitions deserved to be dismissed. It was submitted that the petitioner – WCL had admittedly not challenged such corrections made in the revenue records concerning similarly situated land owners pertaining to lands located in Saoner and Parseoni Tahsils and that the petitioner – WCL did not raise any objection in respect of such orders. It was submitted that enhanced compensation was in fact paid to such claimants without any demur by the petitioner – WCL. On this basis, it was submitted that the present petitions ought to be dismissed by this Court. In order to support the aforesaid contention, Mr. Bhangde, learned Senior Counsel, relied upon judgments of the Hon'ble Supreme Court in the cases of **Union of India and others Vs. Kumudini Narayan Dalal and another** reported **(2001) 10 SCC 231** and Dr. **G. Sadasivan Nair Vs. Cochin University of Sciences and Technology represented by its Registrar and others** reported in **(2022) 4**

SCC 404.

12. Mr. Mehadia, learned counsel appearing for some of the respondent / land owners submitted that the petitioner – WCL was not justified in challenging the impugned orders, only in respect of respondent – land owners before this Court, while disbursing compensation to similarly situated land owners on the basis of correction of revenue record, whereby the lands were shown as irrigated lands. He relied upon **judgment and order dated 08/06/2015, passed by this Court in Writ Petition No. 4722/2014 (Sau. Sunitabai Bhaurao Chikankar Vs. Western Coalfields Limited and others)** and connected petitions. It was also submitted by the learned counsel appearing for the respondent – land owners that the petitioner – WCL was not justified in contending that the impugned orders passed by the Tahsildar would affect the proceedings already filed by the WCL on merits concerning quantum of compensation. It was submitted that the power exercised by the respondent – Tahsildar under Section 155 of the Code was independent and the said authority was well within its rights to pass the impugned order. On this basis, it was submitted that the Writ Petitions ought to be dismissed.

13. The real crux of the controversy in the present petitions pertains

to the interpretation of the power available to the competent authority under Section 155 of the Code. The petitioner – WCL has emphasized on acquisition and vesting of lands, thereby claiming that once such vesting takes place, the revenue authorities under the Code cannot exercise power as regards correction of the revenue entries. There can be no quarrel with the proposition about the effect of vesting as laid down by the Hon'ble Supreme Court in the aforesaid judgments in the cases of **North Eastern Coalfields Ltd. Vs. Mubarak Ali and others** and **V. Chandrasekaran and another Vs. Administrative Officer** (supra). There can be no doubt about the fact that upon acquisition of the lands and the same being vested in the petitioner – WCL, the rights of the land owners stood extinguished, except for their right to claim just and fair compensation. There can also be no quarrel with the position of law that upon vesting of the lands with the petitioner – WCL, the land owners i.e. contesting respondents herein could be said to be *persona non grata*.

14. But, the real question is, as to whether the Revenue Officer under the aforesaid Code would cease to have any jurisdiction in respect of the said lands post acquisition and vesting. In this context, Section 155 of the Code becomes relevant, which reads as under: -

> "155. Correction of clerical errors
>
> The Collector may, at any time, correct or cause to be corrected any clerical errors and any errors which the parties interested admit to have been made in the record of rights or registers maintained under the Chapter or which a Revenue Officer may notice during the course of his inspection:
>
> **Provided that,** when any error is noticed by a Revenue Officer during the course of his inspection, no such error shall be corrected unless notice has been given to the parties and objections, if any, have been disposed of finally in accordance with the procedure relating to disputed entries."

15. A bare reading of the above quoted provision would show that the Collector (in this case the respondent – Tahsildar upon being authorized by the Collector), could at any time correct a clerical error and any error either upon the interested parties admitting to such correction or which a Revenue Officer may notice during the course of inspection. The proviso requires the Revenue Officer to necessarily put the concerned parties to notice and objections, if any, are required to be disposed of finally in accordance with procedure relating to disputed entries. Thus, it becomes clear that there is no limitation to a Revenue Officer exercising power under the aforesaid provision.

16. Much emphasis was placed on behalf of the petitioner – WCL on the aspect that once the land had vested in it, no application could have been preferred by the respondent – land owners under Section 155 of

the Code, for the reason that the petitioner – WCL was not admitting to any such correction and it could not be said, in the facts of the present case, that the Revenue Officer had noticed any error during the course of inspection for making correction.

17. In order to better appreciate the aforesaid contentions raised on behalf of the petitioner – WCL, it would be necessary to take a close look at the documents available on record. A perusal of the two orders passed by the Tahsildar on 11/07/2016 and 09/01/2020, would show that the Tahsildar caused a spot inspection to be conducted concerning the subject lands of the respondent – land owners and after considering the documents on record, found that there was an error in recording the lands as non-irrigated lands. Thereupon, the Tahsildar found it fit to exercise power under Section 155 of the Code to make correction in the records to the effect that the subject lands were irrigated lands. Even if the action of the Tahsildar could be said to have been triggered by the applications filed by the respondent – land owners, it can certainly be said that when spot inspection was conducted through the Talathi and report was received by the Tahsildar as Revenue Officer, error was noticed and power was exercised under Section 155 of the Code for carrying out correction. In this context, a perusal of the objection raised on behalf of the petitioner – WCL before the Tahsildar would show that

the substance of the objection was that once the land stood acquired and vested with the WCL, the Tahsildar could not exercise power to correct the revenue entry. It was indeed stated in this backdrop that the Tahsildar had no jurisdiction under the aforesaid provision and that the respondent – land owners were seeking correction only to get extra benefits for the acquisition of their lands.

18. It is significant that minutes of a meeting conducted with the officials of the petitioner – WCL in the context of growing dis-satisfaction of the land owners with the compensation, show that a direction was issued to the state authorities to give information to the petitioner – WCL regarding permanent sources of irrigation pertaining to the said lands. This document recording minutes of the meeting dated 27/12/2014, has not been denied by the petitioner – WCL.

19. The aforesaid document becomes relevant in the context of a specific communication addressed by the Area Planning Officer of Nagpur Area of the petitioner – WCL, dated 07/10/2006, addressed to the respondent – Tahsildar, wherein it is stated that the land owners had refused to accept compensation while disputing the status of the land and a specific request was made, by the said officer of the petitioner WCL, to confirm the status of the lands given in the statement of the

petitioner – WCL under Section 9(1) of the Act of 1957 on 14/05/2004. It was specifically asked from the Tahsildar, as to whether such statement was correct or not. This becomes extremely crucial for the reason that the said Notification pertained to acquisition of the lands of the respondent – land owners. The said document clearly discloses that the petitioner – WCL itself was in doubt about the lands of the respondent – land owners being recorded as non-irrigated lands. When such a clarification was sought by the petitioner - WCL itself from the respondent – Tahsildar about the exact status of the land of the respondent – land owners, it cannot lie in the mouth of the petitioner – WCL to claim that the impugned orders passed by the Tahsildar correcting error in the record, were without jurisdiction. All that the proviso to Section 155 of the Code requires is that the concerned parties are put to notice and objections are considered before an order is passed for correcting the error in the revenue record.

20. This Court is satisfied that after the matters were remanded on the ground that proper notice was not issued to the petitioner – WCL and thereafter, the Tahsildar considered the objections raised by the petitioner – WCL in detail, the impugned orders cannot be said to be without jurisdiction.

21. Having held that the impugned orders passed by the respondent – Tahsildar cannot be said to be without jurisdiction, the writ petitions could have been dismissed on the ground of availability of alternative remedy. But, having issued notices and considered the contentions of the rival parties on merits, this Court is of the opinion that the Writ Petitions ought not to be dismissed, only on the ground of availability of alternative remedy. Even otherwise, the rule of availability of alternative remedy is more a rule of prudence than a rule of law and a writ petition need not be dismissed on every occasion when it is found that an alternative remedy is available. Therefore, this Court is refraining from dismissing the writ petitions only on the said ground.

22. Even otherwise, it is found that the Tahsildar has considered the objections of the petitioner – WCL in detail. The findings of the Tahsildar are based on spot inspection reports showing sources of irrigation in the lands in question, thereby warranting correction in the revenue record to show the lands as irrigated lands.

23. It is also specifically recorded by the Tahsildar that in the case of similarly situated lands in the Tahsils of Saoner and Parseoni, the petitioner – WCL never raised any objection about correction of revenue record showing the lands as irrigated lands and also paid

enhanced compensation. This is a relevant factor taken into consideration by the Tahsildar. This Court is also of the opinion that when the petitioner – WCL chose not to raise any objection with regard to such correction of the revenue record by the Tahsildar under Section 155 of the Code, pertaining to lands and land owners similarly situated, no interference is warranted in the impugned orders passed by the respondent – Tahsildar. The aspect of negative equality sought to be raised on behalf of the petitioner by placing reliance on the judgment of the Hon'ble Supreme Court in the case of **R. Muthukumar & Ors. Vs. The Chairman and Managing Director** (supra), is misplaced. In the said judgment, the Hon'ble Supreme Court has held that if a benefit is conferred on one set of people without legal basis or justification, that benefit cannot multiply or be relied upon as a principle of parity or equality. Such is not the case in the present matters, for the reason that this Court has held hereinabove that the Tahsildar as the Revenue Officer in the facts and circumstances of the present cases, was indeed justified and within his jurisdiction to exercise power vested under Section 155 of the Code. It cannot be said that benefit or advantage was conferred upon land owners from the Tahsils of Saoner and Parseoni, without legal basis or justification and that the respondent – land owners are claiming negative equality by seeking parity.

24. On the other hand, the respondent – land owners are justified in relying upon judgments of the Hon'ble Supreme Court in the cases of **Union of India and others Vs. Kumudini Narayan Dalal** and **Dr. G. Sadasivan Nair Vs. Cochin University of Sciences and Technology** (supra), wherein it has been laid down that when a rule operates in the context of similarly situated persons and the authority concerned chooses to apply the rule in a particular manner concerning an individual, it ought to apply the rule in the same manner in the context of another similarly situated individual. Thus, the aforesaid contention raised on behalf of the petitioner – WCL cannot be accepted.

25. As regards the contention raised on behalf of the petitioner – WCL that correction of the revenue record by the Tahsildar would affect the proceedings pending before this Court on the question of quantum of compensation, suffice it to say that the correctness or otherwise of exercise of power and orders passed by the Tahsildar under Section 155 of the Code, cannot be analyzed and decided on the basis of proceedings pending before this Court pertaining to quantum of compensation. The whole purpose of determining compensation in such cases is to determine as to what can be just and fair compensation payable to the land owners. The proceedings before the Tahsildar under Section 155 of the Code are clearly independent proceedings and

if they aid in determining just and fair compensation to land owners, then it cannot be said that the proceedings could not have been initiated or the orders passed by the Tahsildar deserved to be set aside, merely because proceedings pertaining to the determination of quantum of compensation are pending before this Court. Thus, the aforesaid contention also deserves to be rejected.

26. In view of the above, it is found that there is no merit in the present writ petitions. Accordingly, the writ petitions are dismissed. No costs.

27. Rule is discharged.

JUDGE

Later on

Upon pronouncement of judgment, Mr. C.S. Samudra, learned counsel appearing for the petitioner – Western Coalfields Limited prayed for continuation of the interim order that was operating during the pendency of the writ petitions. This Court has considered the prayer, but, considering the reasons recorded in the present judgment, this Court is of the opinion that the prayer for continuation of stay cannot be granted.

Hence, prayer is rejected.

JUDGE

Digitally signed by:MILIND P DESHPANDE
Signing Date:16.09.2022 17:55

MP Deshpande