



2024:CGHC:47426-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 813 of 2024

Niraj Jain S/o Shri P.C. Jain Aged About 52 Years R/o Rajniketan,
Circuit House Road, Jagdalpur, District Bastar, Chhattisgarh

... Appellant

versus

- 1** - Competent Authority Cum Additional Collector (Land Acquisition Officer Under Indian Railway Act) Jagdalpur, District Bastar, Chhattisgarh
- 2** - Sub Divisional Officer Cum Land Acquisition Officer, Jagdalpur, District Bastar, Chhattisgarh
- 3** - South Eastern Central Railway Through General Manager, Bilaspur (Chhattisgarh)
- 4** - Chief Administrative Officer (Construction) South Eastern Central Railway, Bilaspur (Chhattisgarh)
- 5** - Bastar Railway Private Limited, Through Its Director, Raipur, Chhattisgarh.
- 6** - The Arbitrator (Under Railway Act) Cum Commissioner, Bastar Division At Jagdalpur, District Bastar, Chhattisgarh

... Respondents

For Appellant(s)	:	Mr. Maulik Bhansali and Mr. Vivek Chopda, Advocates.
For Respondent(s)	:	Mr. S.S. Baghel, Panel Lawyer
For Respondent / UOI	:	Mr. Ramakant Mishra, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Amitendra Kishore Prasad, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

03.12.2024

1. Heard Mr. Maulik Bhansali and Mr. Vivek Chopda, learned counsel for the appellants. Also heard Mr. S.S. Baghel, learned Panel Lawyer appearing for respondent/State as well as Mr. Ramakant Mishra, learned counsel, appearing for respondent / Union of India, on I.A. No.01/2024 is an application for condonation of delay of 45 days in filing the instant appeal.
2. For the reasons mentioned in the application I.A. No.01/2024 i.e. application for condonation of delay, the same is allowed and delay is condoned. With the consent of learned counsel for the parties, the appeal is heard finally.
3. The present writ appeal is preferred assailing the order dated 24.09.2024, passed in Review Petition No. 188/2024 and order dated 08.08.2024, passed by the learned Single Judge in WPC No. 3047 of 2022 (***Niraj Jain v. Competent Authority cum Additional Collector and Others***), whereby, the writ petition filed by the writ petitioner / appellant herein was dismissed.
4. The appellant has preferred this Writ appeal praying for following relief:-

*“I. t is, therefore, prayed that this Hon'ble Court
may kindly be pleased to exercise its appellate*

jurisdiction and in exercise thereof, after hearing the parties in the matter: i. Allow this appeal and quash the order dated 08.08.2024 passed in WPC No. 3047 of 2022 and the order dated 24.09.2024 in Revision Petition No. 188 of 2024 and in consequence thereof allow the relief claimed by the Appellant in Writ Petition (Civil) No. 3047 of 2022 and direct the concerned competent authorities to re-calculate and pay the amount of compensation as may be arrived at in accordance with law within such time frame specified by this Hon'ble Court;

ii. Pass such other order as this Hon'ble Court may deem fit in the interest of justice”

5. Learned counsel for the appellant states that the action of Respondent No. 6 in dismissing the application of Appellant with respect to recalculation of compensation vide order dated 21.02.2022 is perverse, bad in law and against the principles of natural justice and the Writ Court also failed to acknowledge the fact that such order has been passed without application of mind and thus is unsustainable in the eyes of law. The Respondent No. 6 and Writ Court have failed to appreciate the fact that the order dated 10.01.2022 passed in WPC No. 3047 of 2022 and order dated 05.08.2022 passed by the Hon'ble SLP's are judgement/orders in personam and are only binding upon the parties to the said proceedings. The Hon'ble High Court of Madhya Pradesh in case titled ***Pratap Rao Krishanrao Phalke vs. Krishi Upaj Mandi Samiti, Gwalior 1998 (1) MPLJ 141*** has

categorically held that the orders passed by the authorities in cases of land acquisition are judgement/ orders in personam and only binding on the parties to it. It has been further held that his remedy would be to get a declaration that the order was ineffective and non est so far as he is concerned. Thus, based on the aforesaid enunciation of law, the order dated 10.01.2022 in WPC No. 3355 of 2019 and stay granted by the Hon'ble Supreme Court vide order dated 05.08.2022 does not concern the Appellant since he is not a party to such proceedings. Further, the Respondent No. 6 and Writ Court have failed to appreciate the case of the Appellant in its proper perspective and failed to acknowledge the fact that the Appellant was not a party to the proceedings in WPC No. 3355 of 2019 before this Hon'ble Court which set aside the Arbitral Award dated 12.02.2018 and thus the same is not binding upon the Appellant. It is submitted that the said Arbitral Award was passed under the provisions of Railway's Act and approximately 550 landowners were granted compensation qua the said Arbitral Award. The said Arbitral Award was set aside along with order dated 11.07.2019 (order with respect to enhancement of claim in the case of Smt. Neelima Belsaria) and only with respect to landowners who were party to the proceedings of WPC No. 3355 of 2019 and had been granted excess compensation ie., Smt. Neelima Belsaria and Bali Nagwanshi; and not against the all the landowners because no cause of action had arisen against those landowners who are not

party to the said proceedings. The Writ Court failed to acknowledge that upon application of doctrine of merger, the order dated 12.02.2018 passed by Respondent No. 1 merged with order dated 28.06.2019 in case of Appellants and no challenge such order/ proceedings were preferred by the concerned Respondents. It is further submitted that various separate legal proceedings emanated from the Arbitral Award dated 12.02.2018, i.e., one in the case of Appellant as stated herein above and similarly one in case of Smt. Neelima Belsaria wherein the order dated 12.02.2018 merged with 11.07.2019 in proceedings preferred by her. The proceedings preferred by Smt. Neelima Belsaria were challenged by Respondent No. 5 in WPC No. 3355 of 2019 and it is in that context the order dated 12.02.2018 along with order dated 11.07.2019 was set aside; only with respect to modification of compensation regarding her case. Thus, by no stretch of imagination, the setting aside of order dated 11.07.2019 in another case could be binding upon the Appellant. The Writ Court has wrongly observed that since SLP's are pending adjudication, no relief could be granted to the Appellant. It is submitted that the SLP's pending adjudication before the Hon'ble Supreme are no bar to the reliefs being sought by the Appellant because the Hon'ble Supreme Court has categorically directed the parties to maintain status-quo with respect to the property in question and since the Appellant is neither a party to those SLP's nor his properties are in question or within the realm of

adjudication before Hon'ble Supreme Court, the representation of the Appellant with respect to his properties being a separate case altogether can be adjudicated upon by this Hon'ble Court. Even on the alternative, if it is assumed that the Arbitral Award been set aside by this Hon'ble Court vide its order dated 10.01.2022 passed in WPC No. 3355 of 2019 and the same is binding upon the Appellant, under such circumstances this Hon'ble Court has also directed the Competent Authority to re-calculate the award after considering the circular, guidelines and if required to ascertain the factual matrix within six months from the date of the order and no stay has been granted by Hon'ble Supreme Court upon the said operative part of the judgement dated 10.01.2022 and under such circumstances, the relief of re-calculation of compensation with respect to Appellant's Land could have been granted by the Writ Court.

6. Learned counsel for respondents opposes the submissions made by the learned counsel for the appellant in his appeal and submits that the learned Single Judge after considering all the aspects of the matter has rightly dismissed the writ petition and review petition filed by the writ petitioner / appellant herein, in which no interference is called for.
7. From perusal of the impugned order, it transpires that the learned Single Judge dismissed the petition filed by the appellant herein observing that when the claim of writ petitioner is based on award dated 12.02.2018, which is set aside by the High Court in WP

(Cr.). No. 674/2019 and connected matter by which the writ petitioners were also awarded compensation and the case is pending before Hon'ble Supreme Court for adjudication, no relief as prayed for by the writ petitioner can be granted at this stage.

8. Considering the submissions made by the learned counsel appearing for the parties and upon perusing the impugned order, it transpires that appellant filed WPC No. 3047/2022, which was dismissed by the learned Single Judge vide order dated 08.08.2024, against which, the appellant herein preferred REVP No. 188/2024, which was also dismissed by the learned Single Judge vide order dated 24.09.2024 on the ground that order under the writ petition was passed on merits considering the facts which was brought on record i.e. the order passed in WP(Cr.). No. 674/2019 and also the fact that order passed in writ petition was affirmed by the Division Bench and against which, S.L.P. Diary No(s). 33427/2024 is pending consideration, we notice that the same has been rendered by the learned Single Judge with cogent and justifiable reasons. In an intra-court appeal, no interference is usually warranted unless palpable infirmities are noticed on a plain reading of the impugned order. In the facts and circumstances of the instant case, on a plain reading of order, we do not notice any such palpable infirmities or perversities and further, as an SLP is pending before the Hon'ble Apex Court with similar subject matter, in such circumstances, we do not find it appropriate to interfere in the matter.

9. As such, on this ground, the present writ appeal stands **dismissed**, leaving it open to the appellant to take recourse to law.

Sd/-
(Amitendra Kishore Prasad)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Manpreet