IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE RAVI MALIMATH,

CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 3rd OF JANUARY, 2024

WRIT APPEAL No. 1611 of 2023

BETWEEN:-

JAGJEET SINGH WADHWA S/O LATE SHRI SARDARILAL WADHWA, AGED ABOUT 57 YEARS, OCCUPATION: CULTIVATOR NEW SHANTI NAGAR DAMOH TEHSIL AND DISTRICT DAMOH (MADHYA PRADESH)

.....APPELLANT

(BY MS. RENU TIWARI - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH THE SECRETARY DEPARTMENT OF REVENUE VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**

2. **M.P. ROAD DEVELOPMENT CORPORATION LIMITED THROUGH ITS DIVISIONAL MANAGER DIVISIONAL OFFICE AT SAGAR (MADHYA PRADESH)**

3. **THE LAND ACQUISITION OFFICER CUM SUB DIVISIONAL OFFICER (REVENUE) DAMOH TEHSIL AND DISTRICT DAMOH (MADHYA PRADESH)**

4. **THE COLLECTOR D A M O H DISTRICT DAMOH (MADHYA PRADESH)**

.....RESPONDENTS

(BY MR. B.D. SINGH - DEPUTY ADVOCATE GENERAL)

This appeal coming on for admission this day, ***Hon'ble Shri Justice Vishal Mishra*** *passed the following:*

Signature Not Verified
Signed by: LORETTA RAJ
Signing time: 1/10/2024
1:30:43 PM

ORDER

Assailing the order dated 08.09.2023 passed by learned Single Judge in dismissing the Writ Petition No.11497 of 2018, the writ petitioner is in appeal.

2. It is the case of the writ petitioner that he is the owner of land bearing Khasra No.122/1 admeasuring 1.570 hectares and Khasra No.187/1 admeasuring 0.500 hectares in village Laranbagh, Tehsil and District Damoh. A notification was issued under Section 4 of the Land Acquisition Act 1894 on 16.05.2013 for acquisition of the land for construction of BOT Toll and Damoh by-pass road.

3. After conclusion of the proceedings the award has been passed by the authorities under the old Act dated 24.02.2014. It is his case that no notice as required in terms of Sections 9, 11 and 12 of the Act of 1894 was given to the petitioner. He is demanding an opportunity of hearing and award of compensation in terms of the new Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred as the 'Act of 2013'). The W.P. No.2163 of 2015 was filed by the petitioner which was disposed off vide order dated 25.02.2015 with a direction to the Land Acquisition Officer to re-determine the compensation in terms of provisions of the Act of 2013 within a period of six months.

4. It is argued that the authorities have not considered the entire proceedure for determination of compensation as provided under the Act of 2013 and fair compensation has not been provided to him. Therefore, the petition was filed. The writ court has failed to appreciate the aforesaid aspect of the matter and has dismissed the writ petition only on the ground that in terms of the orders passed in the writ petition the authorities have already re-calculated the amount and has paid to the petitioner. It was observed that if the petitioner is having any

Signature Not Verified
Signed by: LORETTA RAJ
Signing time: 7/10/2024
1:30:43 PM

dispute then he may approach the concerning authorities in terms of Section 64 of the Act of 2013 and the petition was disposed off.

5. It is argued that once the entire procedure has been provided in terms of the Right to Fair Compensation Act, the authorities were duty bound to comply with the same. They have not even complied with the directions issued by the court in the earlier round of litigation.

6. Heard counsel for the appellant.

7. It is not in dispute that the award has already been passed. In pursuance to the direction issued by the court in the earlier round of litigation passed in W. P. No.2163 of 2015 vide order dated 25.02.2015 the authorities have already re-calculated the award. It is further not disputed that the same has been paid to the petitioner on 20.01.2016. If the petitioner is aggrieved by payment of inadequate amount of compensation, he has a remedy in terms of Section 64 of the Act of 2013. The aforesaid has been observed by the writ court.

8. Counsel appearing for the appellant could not explain that under what circumstances his claim should be entertained under Article 226 of the Constitution of India or in a writ appeal, once there is a specific remedy available under Section 64 of the Act of 2013. In absence of any such plausible explanation being given by the appellant, no relief can be extended. The writ court has rightly passed the impugned order.

9. Appeal *sans* merit and is dismissed. No order as to costs.

(RAVI MALIMATH)
CHIEF JUSTICE

(VISHAL MISHRA)
JUDGE

LR

Signature Not Verified
Signed by: LORETTA RAJ
Signing time: 1/10/2024
1:30:43 PM