CGHC010157032015 2026:CGHC:45026

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 638 of 2015

1 - Pritam Singh Garcha S/o Late J.S. Garcha Aged About 67 Years R/o H. No. 865/1, Near Gandhi Udyan Civil Lines, Raipur Chhattisgarh

2 - Narendra Pal Singh Garcha S/o Late J.S. Garcha Aged About 57 Years R/o H. No. 865/1, Near Gandhi Udyan Civil Lines, Raipur Chhattisgarh

... Petitioners

versus

1 - State Of Chhattisgarh Through Secretary, Department Of Housing And Enviornment Mantralaya, Naya Raipur Chhattisgarh

2 - The District Collector Collectorate, Raipur Chhattisgarh

3 - The Sub Divisional Officer Cum Land Acquisition Officer, Tehsil Aarang Abhanpur, District Raipur Chhattisarh

4 - Naya Raipur Development Authority Through Its Chief Executive Officer, New Rajendra Nagar, In Front Of Vijeta Complex, R.D.A., Building Raipur Chhattisgarh

... Respondents

For Petitioners	:	Mr. Kabeer Kalwani, Advocate appears on behalf of Mr. Anurag Singh, Advocate
For State	:	Mr. Anmol Sharma, PL
For Respondent No.4	:	Mr. Anuroop Panda, Advocate appears on behalf of Mr. Rajendra Tripathi, Advocate

Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

26/10/2026

1. The petitioners, in this Writ Petition, have prayed for the following reliefs:-

> *“(i) Call for the entire record of land acquisition proceedings of Revenue Case no. 4/A/82 year 2011-12.*
> *(ii) Set aside the notification issued under Section 4(1) of the land acquisition act in Revenue case no. 4/A/82 year 2011-12.*
> *(iii) Set aside the Award dated 31.5.2013 passed in Revenue case no. 4/A/82 year 2011-12.*
> *(iv) Set aside the entire land acquisition proceedings of Revenue case no. 4/A/82 year 2011-12.*
> *(v) Any other relief which this Hon'ble Court may deem fit be granted.”*

2. Facts of the case, in brief, are that the petitioners are joint owners of Khasra Nos. 938 and 1901, admeasuring 0.16 hectares and 8.41 hectares, respectively, situated at Village Barauda, Tehsil Arang. On 25.03.2015, they noticed construction activities near their lands and, upon inquiry, came to know that the subject lands had been acquired by the respondent authorities for the development of Naya Raipur. The acquisition proceedings in Revenue Case No. 4/A/82 of 2011-12 commenced on 21.10.2011, and the award was passed on 31.05.2013. The petitioners contend that no notice, including notice under Section 9 of the Land Acquisition Act, 1894 (hereinafter referred to as ‘the Act, 1894’), was served upon them and that the award was passed without affording them an opportunity of hearing.

3. Learned counsel for the petitioners submits that the land acquisition proceedings are vitiated due to non-compliance with the mandatory provisions of Sections 4(1), 9 and 12 of the Act, 1894 as no public notice was issued at the prescribed places and no individual notice was served upon the petitioners. He further submits that the petitioners were not afforded an opportunity of hearing before passing the award dated 31.05.2013. He also submits that the respondents have failed to follow the due procedure for taking physical possession of the subject lands. He, therefore, prays for setting aside the entire acquisition proceedings, including the notification issued under Section 4(1) of the Act, 1894, and the award dated 31.05.2013.

4. *Per contra,* learned State counsel submits that the land acquisition proceedings were conducted in accordance with law and that the notifications under Sections 4 and 6 of the Land Acquisition Act were duly published in newspapers and on the notice board of the concerned Gram Panchayat. He further submits that notice under Section 9 was issued on 13.09.2012 at the address of the petitioners available in the revenue records. He submits that the award was passed on 31.05.2013 and possession of the subject land was taken on 23.11.2013, pursuant to which the land vested in the Government and development work was undertaken. He further submits that the petitioners have approached this Court after an inordinate delay of more than two years without satisfactorily explaining the delay and that, in view of the passing of the award and taking over of possession, the relief sought by the petitioners cannot be granted. He places reliance on the judgment of the Hon’ble

Supreme Court in ***U.P. Jal Nigam and Another** v. **Jaswant Singh and Another,*** **(2006) 11 SCC 464**, and prays for dismissal of the writ petition.

5. Learned counsel for respondent No. 4 submits that the acquisition proceedings were conducted by following the statutory procedure prescribed under the Act, 1894. The notification under Section 4 was published on 03.12.2011 in the newspapers *Dainik Bhaskar* and *Nava Bharat* and was also published in the Official Gazette. Thereafter, the notification under Section 6 was published in *Dainik Bhaskar* and *Hari Bhoomi*, Raipur Edition, on 24.07.2012 and 26.07.2012, respectively, and was gazetted on 26.07.2012, as reflected in the relevant records. The notification under Section 4 was also affixed on the notice board of the concerned Gram Panchayat, Barauda, on 06.12.2011. He, therefore, submits that the prescribed procedure for publication of the acquisition notifications was duly followed. He further submits that the aforesaid position is supported by the judgments of the Hon'ble Supreme Court in ***May George*** v. ***Special Tehsildar and Others, (2010) 13 SCC 98***, and ***Swaika Properties (P) Ltd.*** v. ***State of Rajasthan and Others, (2008) 4 SCC 695.***

6. Heard learned counsel for the parties and perused the material available on record.

7. The records reveal that the notification under Section 4 of Act, 1894, was published on 03.12.2011 in the widely circulated newspapers *Dainik Bhaskar* and *Nava Bharat* and was also published in the Official Gazette. Subsequently, the notification under Section 6 of the Act, 1894, was

published in *Dainik Bhaskar* and *Hari Bhoomi*, Raipur Edition, on 24.07.2012 and 26.07.2012, respectively, and was gazetted on 26.07.2012. Further, the notification under Section 4 was affixed on the notice board of the concerned Gram Panchayat, Barauda, on 06.12.2011. Thus, the contention that the acquisition notifications were not published at conspicuous places is not borne out by the record.

8. It further appears from the record that notices under Sections 9(1) and 9(2) of the Act, 1894, were issued to the petitioners at their respective addresses recorded in the revenue records. The mere contention that the petitioners had no knowledge of the acquisition proceedings, particularly in view of the publication of the acquisition notifications in newspapers and the Official Gazette, does not establish any illegality in the acquisition proceedings.

9. Furthermore, the award was passed on 31.05.2013, and possession of the subject lands was taken over on 23.11.2013. In view of the publication of the acquisition notifications and the subsequent passing of the award and taking over of possession, the contention of the petitioners that they had no knowledge of the acquisition proceedings does not, by itself, warrant interference with the acquisition proceedings.

10. In the matter of ***May George*** *(supra)*, the Hon'ble Supreme Court has considered the issue relating to service of notice in land acquisition proceedings and held as under:

> *"**29.** The view taken by us hereinabove stands fortified by a large number of judgments of this Court wherein it has been held that if there is an*

irregularity in service of notice under Sections 9 and 10, it could be a curable irregularity and on account thereof, award under Section 11 would not become invalid (see State of T.N. v. Mahalakshmi Ammal [(1996) 7 SCC 269] and Nasik Municipal Corpn. v. Harbanslal Laikwant Rajpal [(1997) 4 SCC 199]).”

11. Likewise, in ***Swaika Properties (P) Ltd.*** (supra), the Hon’ble Supreme Court has held as under:

“16. *This Court has repeatedly held that a writ petition challenging the notification for acquisition of land, if filed after the possession having been taken, is not maintainable. In Municipal Corpn. of Greater Bombay v. Industrial Development Investment Co. (P) Ltd. [(1996) 11 SCC 501] where K. Ramaswamy, J. speaking for a Bench consisting of His Lordship and S.B. Majmudar, J. held:*

“29. It is thus well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification under Section 4(1) and declaration under Section 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third-party rights were

created in the case is hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches."

12. The Hon'ble Supreme Court, in ***U.P. Jal Nigam*** (supra) observed in paragraph 12 as under:

"12. *The statement of law has also been summarised in Halsbury's Laws of England, para 911, p. 395 as follows:*

"In determining whether there has been such delay as to amount to laches, the chief points to be considered are:

(i) acquiescence on the claimant's part; and

(ii) any change of position that has occurred on the defendant's part.

Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches."

13. In the present case, the award has already been passed and possession of the subject lands has been taken over, pursuant to which the lands have vested in the Government and development work under the Naya Raipur Development Scheme has been undertaken. In such circumstances, the petitioners, who appear to have remained fence-sitters, cannot be permitted to challenge the acquisition notifications and the award at this stage.

14. It is also pertinent to note that, insofar as any grievance relating to the quantum of compensation is concerned, the Act, 1894, provides a statutory remedy by way of seeking a reference under Section 18 thereof.

15. In view of the aforesaid discussion, particularly the publication of the acquisition notifications, issuance of notices at the addresses available in the revenue records, passing of the award on 31.05.2013 and taking over of possession on 23.11.2013, this Court finds no ground to interfere with the acquisition proceedings in exercise of its jurisdiction under Article 226 of the Constitution of India.

16. Consequently, the writ petition, being devoid of merit, is dismissed. No order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge

Priyanka