

(2024) 04 CHH CK 0062

In the Chhattisgarh High Court

Case No : Writ Petition (C) No. 2767, 2768, 2770, 2772, 2779, 2781, 2845 Of 2019

Chief Executive Officer

APPELLANT

Vs

Devendra Kumar

RESPONDENT

Date of Decision : 26-04-2024

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6, 9, 11, 31, 34
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24, 24(2), 80

Citation : (2024) 04 CHH CK 0062

Hon'ble Judges : Rakesh Mohan Pandey, J

Bench : Single Bench

Advocate : Malay Shrivastava, Sakshi Chhabda, Y. C. Sharma, Aseem Gopal, Shashank Thakur

Final Decision : Dismissed

Judgement

1. As common issues of law and facts are involved in the present batch of petitions, therefore, with the consent of learned counsel for the parties, the matter is heard finally and is disposed of by this common order.

2. The petitioner / The New Raipur Development Authority has challenged the orders passed by the Land Acquisition, Rehabilitation and Resettlement Tribunal, Raipur (C.G.) dated 10.05.2019.

3. The facts of the present cases are that the petitioner which is a statutory body constituted under the provisions of Chhattisgarh Nagar Tatha Nivesh Adhiniyam, 1973 applied before respondent No. 2 for the acquisition of lands at Village Tutta, Revenue Circle Abhanpur, District Raipur for a total area of 53.462 hectares of land. Respondent No. 2 initiated land acquisition proceedings according to the provisions of Section 9 of the Land Acquisition Act, 1894 (for short 'the Act, 1894') and a Land Acquisition Case No. 52/A-82/2010-11 was registered. A notification under Section 4 of the Act, 1894 was issued on 14.10.2011; the

notification under Section 6 was issued on 06.07.2012 and thereafter notices under Section 9 of the Act, 1894 were issued to the respective land oustees. Finally, the award was passed by the concerned Land Acquisition Officer according to the provisions of Section 11 of the Act, 1894 on 08.10.2012. 10% lump sum amount of the award was initially deposited by the petitioner with the Land Acquisition Officer on 24.09.2011 and after the passing of the award; the remaining award amount was deposited on 23.10.2012. Notices were issued to the land oustees for collection of the compensation amount on 25.10.2012. Out of 47 numbers of affected persons, 26 did not turn up; therefore, a public notice was issued on 07.12.2016 in local newspapers by respondent No. 2.

4. Respondent No. 1 of all cases/land oustees filed separate applications before the Tribunal under Section 80 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act, 2013') claiming therein interest on the amount of compensation. Notices were issued to the petitioner and thereafter the Tribunal vide order dated 10.05.2019 came to the conclusion that the land oustees are entitled to get interest on the amount of compensation as the compensation amount was not paid immediately after passing of the award. The petitioner herein has been directed to make payment of interest according to the provisions of Section 80 of the Act, 2013 which provides that for the first year, 9% and thereafter 15% interest shall be payable on the amount of the award till the date of realization. The petitioner has challenged the orders passed by the Tribunal in these petitions.

5. Mr. Malay Shrivastava, learned counsel appearing for the petitioner would argue that:-

I The applications so moved by the land oustees before the Tribunal were not maintainable as the award was passed according to the old Act of 1894, whereas applications were moved claiming the interest as per provisions of the Act, 2013;

II The amount of award was already deposited prior to 01.01.2014 and this fact was brought to the notice of all the villagers including the land oustees/ respondent No. 1;

III Though the notices were issued to the land oustees, they did not turn up, therefore, the petitioner cannot be penalized for the mistake committed by the land oustees;

IV The Tribunal has assessed the interest on the higher side;

V The amount of compensation was lying with the Land Acquisition Officer and after the filing of the applications by the land oustees, cheques were issued in favour of four land oustees by the Land Acquisition Officer itself; and

VI The orders passed by the Tribunal are liable to be quashed.

6. On the other hand, Mr. Y.C. Sharma, learned Senior Counsel appearing for respondent No. 1 in all cases, would submit that though the award was passed

and the possession of the lands in question was taken over by the petitioner, the compensation was not paid to the land oustees. He would further submit that the land oustees are residents of Village Tutta, Revenue Circle Abhanpur, Tahsil Abhanpur, District Raipur, but no notice was served upon any of the land oustees. He would also submit that though the amount of the award was deposited with the Land Acquisition Officer, neither the Land Acquisition Officer nor the petitioner approached the land oustees, informing the fact that the amount of compensation has been deposited and they may collect the aforesaid amount. He would also argue that the applications moved by the land oustees were maintainable according to the provisions of Section 24 (2) of the Act, 2013 as the amount of the compensation was not paid prior to 01.01.2014. He would further argue that the order has been passed with regard to interest by the Tribunal according to the provisions of Section 80 of the Act, 2013. Thus, he would submit that the petitions filed by the petitioner deserve to be dismissed.

7. Mr. Shashank Thakur, learned Deputy Advocate General appearing for respondent No. 2/Land Acquisition Officer, would submit that the award was passed in the year 2012 and thereafter, the possession of the lands was also taken in the year 2013. He would further submit that the amount of the compensation was deposited by the petitioner with the Land Acquisition Officer. He would also submit that the notices were issued to the land oustees and there is a note at the bottom of the notices issued to the land oustees that notices could not be served on account of an incorrect address and in some of the cases, notices were served to the respective land oustees. He would argue that in four matters, the amount of the award has been paid to the land oustees in the year 2019, during the pendency of the matter before the Tribunal.

8. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and carefully perused the documents placed on the record.

9. Admittedly, a notification under Section 4 of the Act, 1894 was issued on 14.10.2011; the notification under Section 6 was issued on 06.07.2012 and thereafter notices under Section 9 of the Act, 1894 were issued to the respective land oustees. The award was passed by the Land Acquisition Officer as per the provisions of Section 11 of the Act, 1894 on 08.10.2012 and the possession of lands of the land oustees was taken in the year 2013. 10% amount of the award was deposited by the petitioner with the Land Acquisition Officer on 24.09.2011 and the remaining amount was deposited on 23.10.2012. Notices were issued to the land oustees in the month of October, 2012.

10. From the return filed by respondent No. 2/Land Acquisition Officer, it is quite vivid that out of 47 land oustees, 26 persons did not turn up meaning thereby the compensation could not be paid to the majority of the land oustees prior to 01.01.2014. A public notice was issued in the local newspaper on 07.12.2016 and this notice contains the names of 26 persons which clearly establishes that the amount of compensation was not paid to those 26 persons.

11. Sections 24 and 80 of the Act, 2013 which are relevant for the disposal of the present cases are reproduced herein below for reference:-

"24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.--(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),--

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

80. Payment of interest.-- When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per cent, per annum from the time of so taking possession until it shall have been so paid or deposited:

Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent, per annum shall be payable from the date or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry."

12. From a bare reading of sub-section (2) of Section 24 of the Act, 2013 it is evident that in the case of land acquisition proceedings initiated under the Act, 1894, where an award under the said Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid, the said proceedings shall be deemed to have lapsed. The proviso appended to this

Section says where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of the Act, 2013.

13. From a perusal of the documents annexed to these petitions, it is quite vivid that the amount of the award was deposited by the petitioner with the Land Acquisition Officer in the year 2011-2012, but compensation was not paid to the majority of the beneficiaries. The public notice would reveal that out of 47 land oustees, the compensation was not paid to 26 land oustees and their whereabouts were not known to the department.

14. In the matter of Indore Development Authority vs. Manoharlal and Others reported in (2020) 8 SCC 129, in para- 366.4 the Hon'ble Supreme Court while dealing with the scope of Section 24(2) of the Act, 2013 held as under:-

"366.4. The expression "paid" in the main part of Section 24(2) of the 2013 Act does not include a deposit of compensation in court. The consequence of non-deposit is provided in the proviso to Section 24(2) in case it has not been deposited with respect to majority of landholdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the 1894 Act shall be entitled to compensation in accordance with the provisions of the 2013 Act. In case the obligation under Section 31 of the Land Acquisition Act, 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the 2013 Act has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the 1894 Act."

15. In the present case also, though the amount of the award was deposited with the Land Acquisition Officer, the same was not paid to the majority of beneficiaries and therefore, the applications moved by the land oustees before the Tribunal according to the provisions of Section 80 of the Act, 2013 were maintainable. In four cases, the Land Acquisition Officer paid the amount of compensation through cheques to the land oustees. This fact makes it abundantly clear that the amount of compensation has been paid to some of the land oustees out of seven who are before this Court in the year 2019. Non-payment of the amount of compensation to the majority of beneficiaries would not lead to the lapse of the proceedings, but the land oustees would be entitled to get interest according to the provisions of Section 80 of the Act, 2013 and the findings recorded by the Tribunal appear to be reasonable and in accordance with the law.

16. Taking into consideration the provisions of Sections 24 (2) and 80 of the Act, 2013 and the law laid down by the Hon'ble Supreme Court in the matter of

Indore Development Authority (supra), in the considered opinion of this Court, no case is made out calling for any interference by this Court.

17. Consequently, these petitions fail and are hereby dismissed. No costs.