

COURT FEES EXEMPTED
BY NOTIFICATION NO. 9960/D-2870/XXI-
B/C.G./05 AS SPECIFIED IN SCHEDULE
I & II OF THE COURT FEES ACT 1870.

① 4

Division Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

FIRST APPEAL (M) NO. 136 OF 2010

APPELLANTS
NON - APPELLANTS

1. State of Chhattisgarh,
Through : the Collector, Janjgir,
District Janjgir Champa (CG.)
2. The Land Acquisition Officer,
Hasdeo Bango Project,
District Janjgir Champa (CG.)

VERSUS

RESPONDENT
APPLICANT

Bhajan Lal,
aged about 53 years,
S/o Mansai Bhaina,
R/o Village Navagaon,
Tahsil Champa,
District Janjgir Champa.

R.R. No. 277/10
Presented by Shri G.D. Kashid
Dated 27.12.10

APPEAL UNDER SECTION 54 OF THE LAND
ACQUISITION ACT

[Claim in appeal valued at Rs. 7,01,319/- per sq. meter)

HIGH COURT OF CHHATTISGARH, BILASPUR

**DB: Hon'ble I. M. QUDDUSI &
Hon'ble G. MINHAJUDDIN, JJ**

F.A(M) No.125/2010

APPELLANT: State of Chhattisgarh and another
Vs.

RESPONDENTS: Paranu

F.A(M) No.136/2010

APPELLANT: State of Chhattisgarh and another
Vs.

RESPONDENTS: Bhajanlal

**APPEALS UNDER SECTIONS 54 OF THE LAND ACQUISITION
ACT, 1894**

Appearance:

Mr. Vinay Harit, Deputy Advocate General, for the
State/appellants.

None for the respondents.

**ORAL ORDER
(30.06.2011)**

Per I.M. QUDDUSI, J.

- 1 List is being revised. Case is again called out. No one appears on behalf of the respondent(s) even when the matter is called twice. However, Mr. Vinay Harit, Deputy Advocate General appears on behalf of the Appellants. Therefore, we proceed exparte against the respondent(s).
2. Since both the appeals involve common question of facts and law and the acquisition was made under the Land Acquisition Act, 1894 for the public purpose, these two appeals are being decided by this common order.

3. The delay in filing the appeals has already been condoned. Earlier, the bunch appeals including F.A(M). Nos. 82, 83, 84, 85, 86, 88, 89, 93, 96, 97, 98 100 & 129 of 2010 have been decided by this Court by order dated 08th March, 2011, therefore, being in parity with those cases, we are inclined to decide these two instant appeals in terms of the said order.
4. These appeals have been filed by the State of Chhattisgarh under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act' 1894) against the impugned award dated 07.11.2008 passed separately by the learned Addl. District Judge, Sakti, District Janjgir Champa in M.J.C. No.64/2008 & M.J.C.No.65/2008 arising out of the land acquisition case No.6/A-82/2005-2006.
5. Brief facts of the case in a nutshell are the Land Acquisition Officer, Hasdeo Bango Project, Janjgir passed the order dated 29.03.2008 granting certain compensation to the respondent(s). Being dissatisfied with the compensation, the respondents have filed application dated 31.07.2008 before the Land Acquisition Officer u/s 18(2) of the Act and the said application was received by the Addl. District Judge, Sakti on 25.10.2008. It appears that the learned ADJ on the same date issued notice fixing the next date on 31.10.2008 for appearance of both the parties, filing written statement and documents and for framing issues. The witnesses have been examined on 04.11.2008 and within a short span of time from the date of notice, the impugned award was passed on 07.11.2008 by the learned Addl.



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District Judge directing the appellants to pay compensation @ Rs.440/- per sq. meter treating the land in question as usable for residential purpose.

6. It is relevant here to quote Section 18 of Part III of the Land Acquisition Act, 1894 which reads as under:

"18. Reference to Court.—(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire."

7. The application dated 31.07.2008 preferred by the respondent(s) were referred by the Land Acquisition Officer vide reference dated 23.10.2008 which was received by the First Addl. District Judge, Sakti on 25.10.2008. It is surprising to note that on the very same day, the District Judge, Sakti fixed the date for 31.10.2008 directing to send notice to the appellant at village Navagarh, Tahsil Champa

as well as Land Acquisition Officer Hasdeo Bango Pariyojna and Collector Janjgir Champa and immediately the proceedings were concluded in a hasty manner on 07.11.2008 without considering that whether the application filed u/s 18 of the Act was time barred or not.

8. In view of the above, these appeals are liable to be allowed in part setting aside the impugned awards of the Court below. Accordingly, we set aside the awards dated 07.11.2008 and remit the matters back to the Court of Addl. District Judge, Sakti for decision afresh in accordance with law in the following terms :

"That the interim orders stand discharged in view of the final decision. The deposits made under the interim orders in these appeals shall be refunded to the appellant/State but the amounts which have already been received by the respondent(s)/private person(s) shall not be recovered from them due to setting aside of the impugned awards. However, the same shall be subject to the fresh decision of the reference by the Court below and it will be open to the Court below to take the security etc., for the disbursed amount from the respondent(s) if the circumstances so warrant."

9. In the result, the appeals are allowed in part. No order as to cost.

Sd/-
I.M.Quddusi
Judge

Sd/-
G. Minhajuddin
Judge