



HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No.420 of 2021

{Arising out of order dated 11-2-2020 passed by the learned Single Judge in
W.P.(C)No.595/2020}

Shri Rupanadham Steel Pvt. Ltd., A Company duly incorporated under the provision of Companies Act, Having its Registered Office at 11 Shristi Garden, Telibandha, Raipur, Chhattisgarh, Through its Authorised Signatory Shri Pawan Kumar Agrawal, District Raipur (C.G.)

---- Appellant

Versus

1. National Highway Authority of India, Through its Chief Engineer, Public Works Department, National Highway Zone, Pension Bada, Raipur, District Raipur, Chhattisgarh
2. The Sub-Divisional Officer/Land Acquisition Officer, Manendragarh, District Korea, Chhattisgarh
3. Smt. Bigni Bai, W/o Shivnath, R/o Village Nagpur, Tahsil Nagpur, District Korea, Chhattisgarh
4. State of Chhattisgarh, Through its Secretary, Department of Revenue, Mahanadi Bhawan, Atal Nagar, District Raipur, Chhattisgarh
5. The Collector, District Korea, Chhattisgarh

---- Respondents

For Appellant: Mr. Ashish Surana, Advocate.

For Respondent No.1 / NHAI: -

Mr. Tushar Dhar Diwan, Central Government Counsel.

For Respondent No.2, 4 & 5 / State: -

Mr. Rahul Tamaskar, Government Advocate.

For Respondent No.3: -

Mr. Ankur Seth, Advocate on behalf of Mr. Amit Kumar, Advocate.

Division Bench: -

**Hon'ble Shri Sanjay K. Agrawal and
Hon'ble Shri Sanjay Kumar Jaiswal, JJ.**

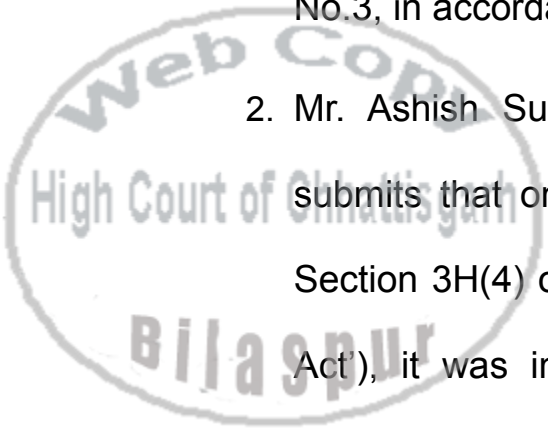
Order on Board
(03/04/2024)



Sanjay K. Agrawal, J.

1. The appellant herein calls in question legality, validity and correctness of the judgment & order dated 11-2-2020 passed by the learned Single Judge in W.P.(C)No.595/2020 by which the appellant's writ petition has been dismissed holding that once the amount of compensation has been disbursed, the Sub-Divisional Officer / Land Acquisition Officer becomes *functus officio* and liberty has been reserved in favour of the appellant to take appropriate remedies available to him for recovery of the said amount from respondent No.3, in accordance with law.

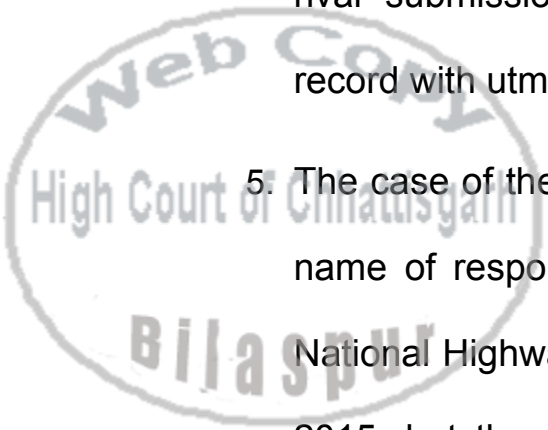
2. Mr. Ashish Surana, learned counsel appearing for the appellant, submits that once the dispute is raised by the appellant in light of Section 3H(4) of the National Highways Act, 1956 (for short, 'the NH Act'), it was incumbent on the part of the competent authority / respondent No.2 i.e. Sub-Divisional Officer (Revenue) / Land Acquisition Officer to refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated for deciding the issue, but the competent authority itself could not have decided the issue holding that the appellant / objector is not entitled for the amount of compensation and respondent No.3 would be entitled for the amount of compensation. As such, the orders of the competent authority dated 3-1-2020 & 23-8-2019, both, deserve to be set aside as well as the order of the





learned Single Judge rejecting the writ petition also deserves to be set aside.

3. Mr. Tushar Dhar Diwan, learned Central Government Counsel appearing for the National Highways Authority of India (NHAI) / respondent No.1; Mr. Rahul Tamaskar, learned Government Advocate appearing for the State / respondents No.2, 4 & 5; and Mr. Ankur Seth, learned counsel appearing for respondent No.3, would support the impugned order and oppose the writ appeal.
4. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
5. The case of the appellant is that the subject land though stood in the name of respondent No.3 at the time of survey of the land by the National Highways Authority of India, which was conducted on 27-10-2015, but thereafter, the appellant has purchased the subject land from respondent No.3 on 3-8-2016 by registered sale deed before the notification issued under Section 3A of the NH Act and therefore he is entitled for the amount of compensation of which he has raised dispute by filing objection dated 24-7-2018 (Annexure P-7) and as such, the dispute ought to have been referred by the competent authority to the District Judge as required under Section 3H(4) of the NH Act, however, the learned Sub-Divisional Officer (Revenue) / Land Acquisition Officer proceeded to decide the objection holding that at the time of survey, the subject land stood in the name of respondent No.3 and proceeded to disburse the amount of compensation to





respondent No.3 ignoring the mandate of Section 3H(4) of the NH Act, which states as under: -

“3H. Deposit and payment of amount.—

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.”

6. A careful perusal of Section 3H(4) of the NH Act shows that any dispute arising as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated. As such, once there is dispute as to whom the amount of compensation or any part thereof is payable, the competent authority has no option except to refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated, as the dispute would be taken cognizance of by the civil court and it has to be decided in accordance with law.
7. Section 3H(4) of the NH Act came up for consideration before the Supreme Court very recently in the matter of **Vinod Kumar and others v. District Magistrate, Mau and others**¹ and it has been held by their Lordships of the Supreme Court that when it comes to resolving the dispute relating to apportionment of the amount

¹ 2023 SCC OnLine SC 787



determined towards compensation, it is only the Principal Civil Court of original jurisdiction which can do so, and Principal Civil Court means the Court of the District Judge. Their Lordships observed as under: -

“33. We are of the view that when it comes to resolving the dispute relating to apportionment of the amount determined towards compensation, it is only the Principal Civil Court of original jurisdiction which can do so. Principal Civil Court means the Court of the District Judge.

34. Our final conclusion is as under : - If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, then, the competent authority shall refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. The competent authority possesses certain powers of the Civil Court, but in the event of a dispute of the above nature, the summary power, vesting in the competent authority of rendering an opinion in terms of sub-section (3) of Section 3H, will not serve the purpose. The dispute being of the nature triable by the Civil Court that the law steps in to provide for that to be referred to the decision of the Principal Civil Court of original jurisdiction. The dispute regarding apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, would then have to be decided by that Court.”

8. In view of the aforesaid principles of law flowing from the decision of the Supreme Court in Vinod Kumar (supra) and in view of the mandate of Section 3H(4) of the NH Act, the writ appeal is allowed and the order of the learned Single Judge dated 11-2-2020 passed in W.P.(C)No.595/2020 as well as that of the competent authority dated 23-8-2019 & 3-1-2020 are set aside. In view of the dispute between the parties as regards the amount of compensation to whom it would



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be payable, the Land Acquisition Officer shall now refer the dispute to the Principal Civil Court of original jurisdiction / District Judge concerned in terms of clause (4) of Section 3H of the NH Act expeditiously. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Sd/-
(Sanjay Kumar Jaiswal)
Judge

Soma





Head Note

In case of any dispute as to whom the amount of compensation or any part thereof is payable, the competent authority has to refer the dispute to the decision of the Principal Civil Court of original jurisdiction i.e. the District Judge concerned, within the limits of whose jurisdiction the land is situated.

किसी भी विवाद के मामले जिसमें मुआवजे की राशि या उसका कोई हिस्सा देय हो, सक्षम प्राधिकारी को विवाद मूल अधिकारिता के प्रधान सिविल न्यायालय अर्थात् संबंधित जिला न्यायाधीश जिसकी अधिकारिता की सीमा के भीतर भूमि स्थित है को निर्णय हेतु संदर्भित करना होगा।

