



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE G.S. AHLUWALIA

ON THE 3rd OF OCTOBER, 2024

WRIT PETITION No. 5793 of 2016

SMT. SHASHI PANDEY

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri R.K. Sanghi – Advocate for the petitioner.

***Shri Swapnil Ganguly – Deputy Advocate General for respondents No.1
& 2/State.***

Shri Vikram Singh – Advocate for respondent No.3/NHAI.

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ORDER

This petition under Article 226 of Constitution of India has been filed seeking following relief(s):-

- (i) call for the entire record pertaining to instant subject matter from the respondents;
- (ii) the entire action on the part of the respondents to acquisition of petitioner's land be declared as void ab initio and the acquisition proceedings be declared as lapsed and possession of the land be restored in favour of the petitioner with costs which is quantified @ Rs.1000/- per day for illegal possession and unnecessary harassment;
- (iii) alternatively, if the respondents want to acquire the subject land, they be directed to proceed afresh as per the provisions of section 29 and 30(2) and the first schedule appended to Act of 2013 and compensation be paid from the date of illegal possession of her land till restoration



- along with compensation @ Rs.1000/- per day for illegal possession till the proceedings are completed under 2013 Act.
- (iv) Any other relief this Hon'ble Court deems fit/proper, may also be granted to the petitioner with costs.
 - (v) The respondents be directed to deliver the peaceful possession of remaining area of Khasra No.52 situate at village Maharajpur except the area 0.271 Hectare on which the road has been constructed and exemplary compensation be granted for the unauthorized possession of the remaining area of the land as quantified In para 7(iii) herein above in the interest of justice.

2. It is the case of the petitioner that possession of land of petitioner was taken without acquiring the same and, therefore, this petition has been filed for the above-mentioned reliefs. Accordingly, on 23/9/2024, this Court had raised certain queries and in response of which, affidavit of Ms. Shivani Singh, SDM, Adhartal, Jabalpur was filed.

3. It is a case where the authorities are out and out to flout the law of land and are not ready to accept their mistake and are also not ready to obey the orders not only passed by different Courts including High Court but are also not ready to comply the order passed by their own predecessor i.e. Collector, Jabalpur.

4. In nutshell the facts are that a notification for acquisition of certain lands was issued but the land owned by the petitioner was not included in the notification issued under Section 6 of the Land Acquisition Act, 1894. Ultimately, the matter went to the District Court and 9th Additional District Judge, Jabalpur by award dated 26.12.2001 passed in Reference No.1/98 held that as the land belonging to the petitioner was not included in the notification issued under Section 6 of



the Land Acquisition Act, 1894, therefore, it cannot be held that the land belonging to the petitioner was acquired. Accordingly, it was directed that if the land owner has been dispossessed, then the possession should be restored back.

5. It appears that thereafter, W.P. No.380/2005 was filed by the petitioner which was disposed of by order dated 21.08.2006 with a direction to the Collector, Jabalpur to take up the issue and he was directed to take a decision as to whether the State Government is inclined to acquire the land or not and in case if it is decided that the land is not required by the State, then the State shall return the possession of the land to the petitioner in accordance with law and in that circumstance, the petitioner shall be entitled for compensation under Section 48 of the Act. It was also held that if the State Govt. wants to retain the land, the Collector shall proceed with the matter and take all steps necessary for the acquisition of the land and in that regard, the petitioner shall be entitled to get the compensation in accordance with the provisions of the Act.

6. Thereafter, Collector, Jabalpur passed an order dated 3.7.2007 in Revenue Case No.93 B-121/06-07 and held that since the possession of the land has already been taken and the same has also been handed over to NHAI and construction of by-pass has also been completed, therefore, it would not be in the public interest to return the land and thus, a direction was issued to take necessary action for acquisition of land.

7. This order passed by the Collector, Jabalpur also fell on the deaf ears of his successor and in spite of the fact that 17 long years have passed, neither the possession of the land has been returned back to the



petitioner nor it has been acquired. The height of thing is that this petition is pending for last 8 years and even pendency of the petition was not sufficient to open eyes of the officers of the State Government who are very conveniently sitting over the rights of the citizens of this country.

8. The State authorities filed their return and relied upon the order dated 3-7-2007 passed by Collector, Jabalpur and submitted that L.A.O. has entered into certain correspondences with Executing Agency and at present the possession with N.H.A.I. It was claimed that authorities are cautious of grievance which is being raised before this Court. The State also filed a copy of order dated 3-7-2007 passed by Collector, Jabalpur along with its return. The State also filed copies of correspondences i.e., dated 18-6-2008, 26-6-2008 etc. by which the L.A.O. had requisitioned Tracing cloth and Amonia print from P.W.D., N.H.A.I. Thereafter, again on 6-12-2008, the S.D.O. (Revenue), Jabalpur, wrote a letter to Project Director, N.H.A.I. to submit a proposal for acquisition of land. Thus, it is clear that although N.H.A.I. was not showing any interest in the matter, but the State Authorities were pressuring it to submit a proposal of acquisition, but ultimately, nothing took place.

9. N.H.A.I./Respondent No.3, filed its return and claimed specifically, that Kh. No. 52 is not required as the road has already been constructed in the year 1990 and the land in dispute is not being used by N.H.A.I. and the land can be taken back by the State Govt. Further extension of two lane road into four lane road is going on, but the land in question has been bypassed and the construction of National Highway is being done thereby excluding the land in question. Therefore, it was claimed that the land in question was never acquired for the purposes of



the said project. Although the State authorities transferred the land to N.H.A.I. in the year 2010, however, the said land has been excluded in the new alignment and therefore, the same has not been used.

10. Thus, it is clear that the specific stand of N.H.A.I. is that the land in dispute is not required to it.

11. Again additional reply was filed by State authorities and submitted that correspondences are going on with N.H.A.I. for acquisition of land.

12. Thereafter I.A. No. 13791 of 2022 was filed by Petitioner, praying for a direction that the respondents should initiate the proceedings for acquisition of land under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Thereafter, by order dated 28-10-2022, 6-1-2023 and 21-8-2023, the respondents no. 1 and 2 were granted time to file reply of I.A. No. 13791 of 2022. Ultimately, the Petitioner filed I.A. No. 9437 of 2023 to close the right of the respondents no. 1 and 2 to file reply to I.A. No. 9437 of 2022.

13. Thereafter, additional reply was filed by the respondents no.1 and 2 claiming that matter is under active discussion with N.H.A.I. and Collector has taken meetings with responsible officers. In meeting dated 18-9-2023, it was resolved that N.H.A.I., Jabalpur will do the needful with regard to acquisition proceedings so that the grievance of the petitioner could have been redressed.

14. In view of the stand taken by the respondents no. 1 and 2, the respondent no.3 filed an additional counter affidavit and submitted that N.H.A.I. had already made it clear that construction work of Old National High way No. 7 was done by PWD National Highway in the



year 1990-91 and the land required for the said purpose was acquired by virtue of the land acquisition proceedings done in the year 1990. In the year 2010, the said section of Rewa-Katni-Jabalpur-Lakhnadon of National Highway No. 7 was transferred to N.H.A.I. for construction of four lane road. The land of the petitioner is situated on old National Highway and the said Kh. is not all on the land so acquired by the answering respondent for construction of bypass and the alignment of the land over which the bypass has been constructed, doesnot include the land belonging to the petitioner. **It is also need to clarify that the bypass so constructed on the part of the answering respondent is situated at a distance of around 250 meter from the old National Highway (old) which was constructed by the agency of the State Govt.** The specific stand taken by respondent no.3 is reproduced as under :

6. That, the guidelines so issued by the Ministry of Road &Transport, dated 30.11.1977, wherein it has been mentioned that an abandoned length would cease to be the part of the National Highway System and would no longer vest in the Government of India, and that the State Government to whom abandoned length reverts would be competent to transfer it to any local body under their control and in the light of the said provisions the Old National Highway No.7,vide various correspondences directed to transfer the said land to the PWD-NH, and subsequently the said land was transferred to the PWD vide letter dated 02.12.2022. A copy of the guidelines dated 30.11.1977 and the letter dated02.12.2022 are placed on record as (ANNEXURE-R/10,R/11).

7. That the reference of the letter dated 30.08.2022, as enumerated in the reply so filed by the State Government and heavily placed reliance on the said letter in order to shift the responsibility of its own upon the shoulder of answering respondent. It is respectfully submitted that the



said letter dated 30.08.2022, was issued from the office of the answering respondent in the light of the letter dated 30.08.2022 so issued by the Collector assuming it that the said Khasra was effecting to the Panagar bypass so constructed by the answering respondent and accordingly vide the letter dated 30.08.2022 it was referred to the CALA to provide the relevant document relating to the acquisition of land. However the documents so provided on the part of the office of the CALA vide its letter dated 25.08.2023, revealed that the land in question so belonging to the petitioner is no tat all situated on the Panagar by pass so constructed by the answering respondent after the conclusion of requisite acquisition proceeding in accordance to the provisions of NH Act 1956, but the same falls within the old National HighwayNo.7, so constructed by the PWD NH and therefore the reference of the letter dated 30.08.2022 so taken on the part of the State Government, does not help them to pass on the responsibility upon the shoulder of the answering respondent. Copies of the letter dated 30.08.2022 are placed on record as(ANNEXURE-R/12)

8. That, it is further relevant to mention here that the Collector Jabalpur vide its order dated 3TM July 2007, in the revenue case No. 93-B-121/06-07, so instituted by the petitioner herein, observed in its order to the extent that the possession of land in question has already been handed to the Department concerned and the construction has already been done and in such situation the possession of the land can not be delivered back to the petitioner in the public interest and as such based on the facts directed that the land acquisition proceedings be done by the PWD, in accordance to the provisions of Land Acquisition Act 1894, and therefore in the light of the observation so made in the letter in hand the acquisition if any is required to be done, has to be done by the PWD. A copy of the order dated 3July 2007 is annexed here with as (ANNEXURE-R/13).

10. That, it is further respectfully submitted that the land was acquired in accordance to the provisions of Land



Acquisition Act, 1894 for the construction of the bypass and it is made clear that on the basis of the analysis of the documents so provided on the part of the CALA that the land in question belonging to the petitioner doesnot fall within the said acquired land and therefore, the PWD, cannot transfer it liability upon the shoulder of the answering respondent. A copy of the requisition notification and other relevant proceedings are cumulatively annexed here with as **Annexure R/15**.

15. Thus, it is clear that the specific stand of the N.H.A.I. is that it doesnot require the land in question.
16. Accordingly, this Court on 23/09/2024 passed the following order:-

“Dated: 23-09-2024

Shri R.K. Sanghi - Advocate for petitioner.

Shri Ritwik Parashar - Panel Lawyer for respondents Nos.1 & 2/State.

Shri Vikram Singh - Advocate for respondent No.3.

The controversy revolves in a very narrow compass.

It is submitted by counsel for petitioner that in the year 1988 the possession of the land belonging to petitioner was taken by Collector, Jabalpur and it was handed over to N.H.A.I. for construction of highway. The said action was tested at different levels before different forums and ultimately it was found that land of petitioner was not included in the notification issued under Section 4 of Land Acquisition Act, 1894 and therefore, petitioner was illegally dispossessed from her land in dispute.

Respondents have filed their return. In the return dated 21.12.2016 respondents have relied upon the order passed by Collector, Jabalpur dated 03.07.2007 in which the previous litigations have been mentioned in detail and thereafter, it was held that since possession of land has already been handed over to



N.H.A.I. and Jabalpur bypass has already been constructed, therefore, it is not viable to return the land to petitioner and accordingly, it was directed that acquisition proceedings for acquisition of land belonging to petitioner may be initiated.

However, it is submitted by counsel for petitioner that in spite of the fact that 14 long years have passed, still no proceedings under Section 4 of Land Acquisition Act, 1894 or under Section 11 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 have been initiated.

It is submitted by Shri Vikram Singh that land which is in dispute is of no use for N.H.A.I., therefore, they do not want this land.

Under these circumstances, the irretrievable conclusion would be that petitioner was illegally dispossessed by Collector, Jabalpur sometimes in the year 1988 and till today no action has been taken for acquiring the said land in accordance with law.

Accordingly, counsel for State prays for a day's time to make a statement as to whether Collector, Jabalpur is ready to return the land back to petitioner or not and if he decides to return the land back, then what compensation would be paid by State Government to petitioner for depriving her from enjoying the fruits of land in dispute from the year 1988 till today.

List tomorrow (24.09.2024).”

17. Ms. Shivani Singh, SDM Adhartal, Jabalpur filed the following compliance report as I.A. No.13772/2024:-

**IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR
W.P. NO.5793/2016
PETITIONER: SMT. SHASHI PANDEY
VERSUS
RESPONDENTS: THE STATE OF MADHYA
PRADESH AND OTHERS
SUBMISSIONS OF RESPONDENT NO.1 AND 2
PURSUANT TO ORDER OF THE HON'BLE
COURT DATED 23.09.2024**



That, the answering respondents/ State Government most humbly submit as under:

1. That, the petitioner is seeking relief from the respondents for compensation of her land, which after the acquisition, in the year 1988 has been taken for construction of a highway. Subsequently NHAI has refused to take the land in question. The petitioner has approached this Hon'ble Court as she has been deprived from her property without following the due process, in accordance with law. The Hon'ble Court, on 23.09.2024, observing that despite lapse of 14 long years, compensation has not been paid and that the NHAI has made a statement that they do not want the land in question any more. The Collector, Jabalpur was directed to make valuations on various aspects regarding the present controversy.
2. That, on 24.09.2024, the Collector, Jabalpur has convened a meeting to decide the issue involved in the present petition and to submit a definite stand before this Hon'ble Court, discussing with all relevant stake holders of the case. After due deliberation, it is decided that the State Government would be making payment of compensation at the prevailing rate on the date of taking the possession as per the Act of 1894, along with solatium at 30 per cent and interest as per the provisions (9 per cent for the first year and 15 per cent for subsequent years) as provided under section 34 of the Land Acquisition Act, 1894. The entire process resulting in payment would be completed within a period of four weeks. The entire compensation amount will be paid in the next four weeks. These submissions of the State Government may kindly be taken on record, in the interest of justice.
3. That, an affidavit in support is filed herewith.

PLACE: JABALPUR, M.P.

DATE:

COUNSEL FOR THE RESP. NO.1 AND 2"



18. When the case was taken up in the morning session, it was submitted by counsel for State that State will initiate proceedings for acquisition under Land Acquisition Act, 1894 and whatever compensation is fixed, that will be paid to the petitioner.

19. This Court was not satisfied with the reply given by the counsel for the State because admittedly, the petitioner was dispossessed on 5.2.1988 and for the last 36 long years the petitioner is fighting for her rights and the authorities are enjoying her situation by sitting tight over the matter in spite of orders passed by the Civil Court, High Court and even by the predecessors of the Collector, Jabalpur. Further, the stand of respondents no.1 and 2 is contrary to the stand of the respondent no.3. On one hand, it is the stand of the respondent no.3 that it does not require the land in question, whereas on the other hand, the respondents no.1 and 2 are out and out to prolong the proceedings by making an attempt to pressurize the respondent no.3 to submit the proposal for acquisition. Therefore, at the request of counsel for the State, the matter was passed over.

20. In the pass over round, it was once again submitted that the affidavit, which has been filed by SDM, is on the instructions of the Collector, Jabalpur but the counsel for respondents/State was not in a position to narrate as to whether the instructions were in writing or verbal. **It was once again submitted that now land would be acquired but State is not willing to pay any compensation to petitioner for her illegal dispossession.**

21. This Court is conscious of the fact that officers should not be summoned unless and until the Court is left with no other option. The District Court and High Court had passed orders in the year 2001 &



2006 respectively. The Collector had passed the order in the year 2007. This petition is pending since 2016. **The N.H.A.I. has taken a specific stand that it came into picture in the year 2010 and the land in question is not required.** This Court had raised detailed query in its order dated 23/09/2024, but still the Collector, Jabalpur is not ready to mend his ways and in utter violation of aforementioned orders as well as the stand of N.H.A.I., is out and out to take flimsy defence that land will be acquired, however, no steps have been taken so far for the same. Since, a specific stand was taken by State counsel that I.A. No.13772/2024 has been filed on the instructions of Collector Jabalpur, therefore, it was Collector Jabalpur who created a situation for his personal appearance in a case where petitioner was deprived of her property in the year 1988 and still she is fighting for her rights.

22. The manner, in which, the case was being dealt with by the respondents for the last 8 years and the manner, in which, the petitioner has been deprived of her property for the last 36 long years and in view of utter violation of Constitutional/human right as enshrined under Article 300-A of Constitution of India, this Court thought it proper to summon the Collector, Jabalpur so that he can reply the facts raised in this writ petition as the counsel for State was not in a position to effectively assist the Court.

23. Accordingly, the case was taken up at 3:30 p.m.

24. Shri Deepak Saxena, Collector Jabalpur fairly conceded that if one private person illegally dispossesses another private person, then such an act would be a crime and fairly conceded that since the State Government is also a person, therefore the same analogy would also apply. However, he tried to submit that merely the details of the land of



petitioner were not mentioned in notification issued under Section 6 of Land Acquisition Act, therefore it cannot be said that the land of the petitioner was never acquired. Ever otherwise it is submitted that the petitioner is only entitled for compensation under Land Acquisition Act, 1894.

25. Since the petitioner has been illegally deprived of her constitutional as well as human rights as enshrined under Article 300-A of Constitution of India, therefore, it was submitted by Shri Sanghi that the petitioner should be awarded rent/ compensation under Section 48 of Land Acquisition Act, 1894 from the date of illegal dispossession till the land is acquired.

26. It was arrogantly submitted by Shri Deepak Saxena that the petitioner is only entitled for compensation which will be decided in the acquisition proceedings and is not entitled for any rent/ compensation. This attitude of Shri Saxena will be considered at a later stage.

27. Ms. Shivani Singh, SDM who has filed an affidavit in response to order dated 23/09/2024, is also present and she submitted that affidavit has been filed by her as per the instructions given by Collector Jabalpur.

28. Heard the learned Counsel for the Petitioner, State, N.H.A.I. and Collector Jabalpur.

Discussion

Whether the land of the petitioner was acquired or not and whether possession of the same was taken or not?

29. The order dated 23/09/2024 passed by this Court has already been reproduced. The different stands taken by respondents no.1 & 2 and respondent no. 3 have already been discussed and reproduced in earlier paragraphs.



30. Similarly written submission filed by SDM Adhartal, District Jabalpur along with her affidavit has also been reproduced.

31. It was submitted by counsel for the State that although the notification under Section 6 of Land Acquisition Act did not mention the number of land belonging to the petitioner but since the Award was passed as the land of the petitioner was mentioned in the notification under Section 4 of Land Acquisition Act, therefore petitioner is not entitled for rent/ compensation.

32. Shri Deepak Saxena also submitted that in fact the land of the petitioner was acquired and merely because it was not included in the notification issued under Section 6 of Land Acquisition Act, therefore that would not make any difference.

33. *Per contra*, it was the stand of the petitioner that the land of the petitioner was neither included in the notification issued under Section 4 or under Section 6 of Land Acquisition Act.

34. Now the only question for consideration is as to whether the land of the petitioner was acquired or not and whether any compensation was paid or not?

35. Undisputedly, no compensation has been paid to the petitioner so far.

36. Petitioner had filed W.P. No. 380/2005 for restoration of possession of the petitioner taken by the respondents. The said Writ Petition was decided by order dated 21/08/2006 by passing the following directions:-

“21.8.2006

Shri R.K. Sanghi, Advocate for petitioner.
Shri Rahul Jain, Counsel for State.



No return has filed by the State inspite of various

opportunities granted in the matter.

The controversy involved in this case is a short one. The petitioner is the owner of land S.N.52 of village Maharajpur, Dist. Jabalpur. The petitioner was dispossessed from the land on the ground that this land was acquired by the respondents. Thereafter the compensation proceedings took place before respondent No.2, but no award in respect of land bearing S.N.S2 was passed in favour of the petitioner. The petitioner approached the Land Acquisition Officer drawing his attention that the petitioner has been dispossessed from the land, but no compensation has been paid to the petitioner in respect of S.N.52. A reference was made to the Civil Court under Section 18 of the Land Acquisition Act, 1894 (hereinafter in short referred to 'The Act'). In that case, also prayer was made to pay compensation in respect of S.N.52, but no decision was taken. As the aforesaid land was not acquired under Sections 4 & 6 of the Act, the matter was concluded by the Civil Court. Thereafter the petitioner moved an application under Section No.44 of the C.P.C. for restoration of the possession; this application was opposed by the Land Acquisition officer by filing a written reply. The Civil Court decided the matter vide order dated 3rd August, 2004 (Annex. P/6) and dismissed the application on the ground that if the petitioner's land is not acquired, the petitioner has to approach the appropriate forum for the restoration of the possession Against this order, the petitioner preferred a revision before the High Court being Civil Revision No.725/2004. The said revision was withdrawn by the petitioner with liberty to file an appropriate application before the Collector for restoration



of the possession, which reflects from order dated 4.12.2004 (Annex, P/7). Thereafter, this petition has been filed.

This Court had already permitted the petitioner vide order dated 4.12.2004 to approach the Collector for restoration of the possession of S.N.52, but till date the petitioner has not approached the Collector in this regard. If the petitioner's land S.N.52 (by the Land Acquisition Officer) has not been acquired, the possession of the land has been taken and compensation has not been paid, then matter deserves to be considered by the Collector, Jabalpur on filing a representation in this regard by the petitioner. The petitioner, who has been deprived with the land by the respondents and has been dispossessed from the land, is entitled either for compensation or for restoration of the possession, but no such recourse has been taken by the respondents and till date as per allegation of the petitioner, the petitioner is deprived with the fruits of the land. In aforesaid circumstances, this matter is finally disposed of with following directions:

The petitioner may approach to the Collector, Jabalpur for redressal of the grievance by filing a representation in this regard. Along with the representation, the petitioner shall enclose copies of all the aforesaid orders and the award passed by the Land Acquisition Officer or reference of the Court.

If such representation is made by the petitioner before the Collector, Jabalpur, the Collector, Jabalpur to take a final decision within a period of 90 days from the date of filing of the representation that whether the State is inclined to acquire land S.N.52 or not



and in case it is decided that the land is not required by the State, the State shall return the possession of the land to the petitioner in accordance with law and in that circumstance, the petitioner shall be entitled for compensation under Section 48 of the Act.

If it is decided that the land is required by the State, the Collector shall proceed with the matter and take all steps necessary for the acquisition of the land and in that regard, the petitioner shall be entitled to get the Compensation in accordance with the provisions of the Act. The Collector shall pass a reasoned order in this regard within the time as fixed by this Court.

Certified copy as per Rules.”

37. Thus, it is clear that liberty was granted to the petitioner to approach the Collector Jabalpur for redressal of her grievance by filing representation and the Collector Jabalpur was directed to take final decision within a period of 90 days as to whether State Government is inclined to acquire khasra No.52 or not and in case if the State decides that land is not to be acquired by the State, then the State shall return the possession of the land to petitioner in accordance with law and in that circumstances, petitioner shall be entitled for compensation under Section 48 of Land Acquisition Act and further it was directed that in case if the State Government decides to retain the land then it shall take steps for acquisition of land and the petitioner would be entitled for compensation as per the provisions of the Act.



38. In compliance of said order, Collector Jabalpur passed the order dated 03/07/2007 in revenue case No.93/B-121/06-07, which reads as under:-

“न्यायालय कलेक्टर जिला—जबलपुर, (म0प्र0)

राजस्व प्रकरण क्रमॉक 93 बी-121/06-07

श्रीमती शशि पाण्डे पति श्री अंजनी पाण्डे,

निवासी म.नं. 270, आनंद नगर, आधारताल, जबलपुर

(आवेदिका)

विरुद्ध

मध्यप्रदेश शासन

आदेश

(पारित दिनांक 03 जुलाई, 2007)

यह प्रकरण आवेदिका श्रीमती शशि पाण्डे पति अंजनी पाण्डे, निवासी मकान नम्बर 270, आनंद नगर आधारताल, जबलपुर की ओर से विद्वान अधिवक्ता श्री आर. के. संघी, द्वारा माननीय उच्च न्यायालय जबलपुर की याचिका क्रमांक डब्ल्यू.पी. 380/2005 में पारित आदेश दिनांक 21/08/2006 की प्रमाणित प्रति, तथा माननीय नवम अतिरिक्त जिला न्यायाधीश, जबलपुर म.प्र. के रिवीजन प्रकरण क्रमांक 1/98 में पारित अधिनिर्णय दिनांक 26.12.2001 की छायाप्रति के साथ माननीय न्यायालय से प्राप्त निर्देशानुसार अवैध रूप से अर्जित की गई ग्राम महाराजपुर नं.वं. 664 प.ह.नं. 20 तहसील एवं जिला जबलपुर में स्थित भूमि खसरा नं. 52 रकबा 0.271 हेक्टर को वापिस किये जाने के संबंध में आवेदन पत्र, शपथपत्र, सहित प्रस्तुत किये जाने पर संस्थित किया गया ।

प्रकरण का संक्षेप में विवरण इस प्रकार है कि भू-अर्जन अधिनियम 1894 के अन्तर्गत प्रकरण क्रमांक 20 (17)/अ-82/1987-88 में पारित अधिनिर्णय दिनांक 12.11.90 के अनुसार आवेदिका की ग्राम महाराजपुर प.ह.नं. 20 तहसील जबलपुर में स्थित भूमि खसरा नम्बर 52 रकबा 0.271 हेक्टर को जबलपुर बाई पास मार्ग निर्माण हेतु अर्जित किया जाकर भूमि का मूल्य रूपये 50000/- प्रति हेक्टर निर्धारित किया गया। उक्त आदेश से परिवेदित होकर



आवेदिका द्वारा माननीय न्यायालय में याचिका दायर की गई ।

माननीय नवम् अतिरिक्त जिला न्यायाधीश जबलपुर द्वारा रिवीजन प्रकरण क्रमांक 1/98 में पारित अधिनिर्णय दिनांक 26.12.2001 के अनुसार आवेदिका की प्रश्नाधीन भूमि का भू-अर्जन अधिनियम 1894 की धारा 06 में प्रकाशन न होने के कारण भूमि को विधिवत अधिग्रहण होना नहीं मानते हुए यह आदेशित किया है कि उपरोक्त भूमि अधिगृहीत न माने जाने से उसका वास्तविक स्वामी जो भी वर्तमान में है, वह भूमि का अधिपत्य यदि ले लिया गया है तो वापिस प्राप्त करने का अधिकारी है।

माननीय उच्च न्यायालय जबलपुर की याचिका क्रमांक डब्ल्यू.पी. 380/2005 में पारित आदेश दिनांक 21.08.2006 के अनुसार मान. न्यायालय द्वारा यह आदेशित किया गया है कि ग्राम महाराजपुर प.ह.नं. 20 नं.बं. 664 तहसील व जिला जबलपुर स्थित भूमि खसरा नम्बर 52 रकबा 0.271 हेक्टर का कब्जा वापिस आवेदिका को उपलब्ध कराया जावे।

माननीय न्यायालय से प्राप्त आदेशानुसार इस न्यायालय द्वारा विधिवत प्रकरण पंजीबद्ध किया जाकर कार्यपालन यंत्री, लोक निर्माण विभाग राष्ट्रीय राजमार्ग संभाग जबलपुर से निम्नलिखित बिन्दुओं पर जबाब प्राप्त किया गया।

- (1) क्या विभाग प्रश्नाधीन भूमि को शासकीय कार्य हेतु अधिगृहण करना चाहता है ?
- (2) वर्तमान में क्या विभाग का उपरोक्त भूमि पर कब्जा है? अगर है तो किस आधार पर ?

कार्यपालन यंत्री लोक निर्माण विभाग, राष्ट्रीय राजमार्ग संभाग, जबलपुर द्वारा अपने पत्र दिनांक 05.01.2007 द्वारा यह लेख किया है कि ग्राम महाराजपुर प.ह.नं. 20 खसरा नं. 52 रकबा 0.271 हेक्टर भूमि का अधिगृहण विभाग द्वारा कर लिया गया है। न्यायालय भू-अर्जन अधिकारी जबलपुर के प्रकरण क्रमांक 20(17) अ-82/1987-88 में पारित अधिनिर्णय दिनांक 12.11.1990 के आधार पर वर्तमान में विभाग का प्रश्नाधीन भूमि पर कब्जा है।

मेरे द्वारा प्रकरण का अवलोकन किया गया। प्रश्नाधीन भूमि के अर्जन से संबंधित जबलपुर बाईपास मार्ग निर्माण के मूल भू-अर्जन प्रकरण का परीक्षण किया गया। प्रकरण के अवलोकन से यह स्पष्ट है कि भू-अर्जन



अधिनियम 1894 की धारा 06 की अधिसूचना में ऋट्टिवश प्रश्नाधीन भूमि खसरा नम्बर 52 रकबा 0.271 हेक्टर का प्रकाशन होना नहीं पाया गया। प्रकरण में संलग्न कार्यपालन यंत्री के प्रतिवेदन के अनुसार आवेदिका की भूमि विभाग के कब्जे में है तथा उपरोक्त भूमि बाईपास मार्ग निर्माण हेतु विभाग के लिए अधिगृहीत की जाकर विभाग को कब्जे में सौंपी जा चुकी है। अधिनियम की धारा 06 के प्रकाशन में ग्राम महाराजपुर तहसील जबलपुर के खसरा नम्बर 42, 43/1-2, 44/1-2, 51, 53, 56, 57 रकबा क्रमशः 0.085, 0.716, 0.837, 0.271, 0.032, 0.259 0.922 कुल रकबा 8.777 का राजपत्र में प्रकाशन किया गया है परन्तु प्रश्नाधीन भूमि खसरा नम्बर 52 रकबा 0.271 का राजपत्र में प्रकाशन नहीं किया गया है।

चूंकि वर्तमान में प्रश्नाधीन भूमि का कब्जा विभाग को सौंपा जा चुका है। जबलपुर बाईपास मार्ग का निर्माण कार्य भी पूर्ण हो चुका है। ऐसी स्थिति में इस भूमि का कब्जा लोकहित की दृष्टि से आवेदिका को वापिस किया जाना न्यायसंगत नहीं है। अतः प्रकरण में आये समस्त तथ्यों तथा माननीय न्यायालय द्वारा पारित आदेश के परिपालन में यह आदेशित किया जाता है कि भू-अर्जन अधिनियम 1894 के प्रावधानों के अनुसार आवेदिका की ग्राम महाराजपुर प.ह.नं. 20 नं.ब. 664 तहसील व जिला जबलपुर में स्थित भूमि खसरा नम्बर 52 रकबा 0.271 के जबलपुर बाईपास मार्ग निर्माण हेतु विधिवत भू-अर्जन की कार्यवाही की जावे।

यह आदेश मेरे हस्ताक्षर व न्यायालय की मुद्रा के अधीन खुले न्यायालय में जारी किया गया। आवेदिका सूचित हो। प्रकरण अग्रेतर कार्यवाही हेतु भू-अर्जन अधिकारी जबलपुर को भेजा जावे।

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39. From this order, it appears that against the Award dated 12/11/1990, petitioner had approached the District Court and 9th Additional District Judge Jabalpur by order dated 26/12/2001 passed in Reference No.01/1998 had held that since the land belonging to the petitioner was not acquired, therefore the same should be returned back.



40. Furthermore, this Court has also passed an order in W.P. No. 380/2005 which has already been reproduced. Thereafter, Collector Jabalpur after discussing the matter in detail came to a conclusion that it would not be proper to return the land back to the petitioner and accordingly, it was directed that proceedings be initiated for acquisition of land. This order was passed on 03/07/2007 and in spite of that nothing has been done. It is not the case of the respondents that order dated 03/07/2007 passed by Collector Jabalpur does not hold the field or it has been set aside in any other proceedings.

41. Thus, it is clear that the fact as to whether land of the petitioner was ever acquired or not has already been decided by order dated 26/12/2001 passed by 9th Additional District Judge Jabalpur in Revision No.1/1998 as well as order dated 03/07/2007 passed by Collector Jabalpur in revenue case No. 93-B/121/06-07 as well as order dated 21/08/2006 passed by this Court in W.P. No.380/2005.

42. Under these circumstances, the respondents cannot re-agitate the question with regard to the fact as to whether the land of the petitioner was actually acquired or not as the said question has already attained finality.

Whether the Petitioner can be deprived of her property without following due process of law ?

43. The Supreme Court in the case of **Tukaram Kana Joshi v. MIDC**, reported in **(2013) 1 SCC 353** has held as under :

8. The appellants were deprived of their immovable property in 1964, when Article 31 of the Constitution was still intact and the right to property was a part of fundamental rights under Article 19 of the Constitution. It is pertinent to note that even after the right to property ceased to be a fundamental right, taking possession of or acquiring



the property of a citizen most certainly tantamounts to deprivation and such deprivation can take place only in accordance with the “law”, as the said word has specifically been used in Article 300-A of the Constitution. Such deprivation can be only by resorting to a procedure prescribed by a statute. The same cannot be done by way of executive fiat or order or administration caprice. In *Jilubhai Nanbhai Khachar v. State of Gujarat*, it has been held as follows : (SCC p. 627, para 48)

“48. In other words, Article 300-A only limits the powers of the State that no person shall be deprived of his property save by authority of law. There [is] no deprivation without [due] sanction of law. Deprivation by any other mode is not acquisition or taking possession under Article 300-A. In other words, if there is no law, there is no deprivation.”

9. The right to property is now considered to be not only a constitutional or a statutory right but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment, etc. Now however, human rights are gaining an even greater multifaceted dimension. The right to property is considered very much to be a part of such new dimension. (Vide *Lachhman Dass v. Jagat Ram*, *Amarjit Singh v. State of Punjab*, *State of M.P. v. Narmada Bachao Andolan*, *State of Haryana v. Mukesh Kumar* and *Delhi Airtech Services (P) Ltd. v. State of U.P.*)

44. The Supreme Court in the case of **B.K. Ravichandra v. Union of India**, reported in (2021) 14 SCC 703 has held as under :

35. It is, therefore, no longer open to the State : in any of its forms (executive, State agencies, or legislature) to claim that the law — or the Constitution can be ignored, or *complied at its convenience*. The decisions of this Court, and the history of the right to property show that though its pre-eminence as a fundamental right has been undermined, nevertheless, the essence of the rule of law protects it. The evolving jurisprudence of this Court also underlines that it is a valuable right ensuring guaranteed freedoms and



economic liberty. The phrasing of Article 300-A is determinative and its resemblance with Articles 21 and 265 cannot be overlooked, they in effect, are a guarantee of the supremacy of the rule of law, no less. To permit the State : whether the Union or any State Government to assert that it has an indefinite or overriding right to continue occupying one's property (bereft of lawful sanction) — whatever be the pretext, is no less than condoning lawlessness. The courts' role is to act as the guarantor and jealous protector of the people's liberties : be they assured through the freedoms, and the right to equality and religion or cultural rights under Part III, or the right against deprivation, in any form, through any process other than law. Any condonation by the court is a validation of such unlawful executive behaviour which it then can justify its conduct on the anvil of some loftier purpose, at any future time, aptly described as a "loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need."

45. Thus, it is clear that the right to hold property is not only a Constitutional Right as enshrined under Article 300-A of Constitution of India but is also a Human Right and no one can be deprived of his property except in accordance with law.

Whether the Petitioner is entitled for compensation for her illegal dispossession.

46. Section 48 of the Land Acquisition Act, 1894 reads as under:-

“48. Completion of acquisition not compulsory, but compensation to be awarded when not completed.- (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.



(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.”

47. Since the State Government has decided not to return the land, therefore, compensation under Section 48 of the Land Acquisition Act will not be payable to the petitioner, but taking the analogy of Section 48 of the Land Acquisition Act as well as in view of the fact that right to hold the property is a Constitutional right under Article 300-A of Constitution of India, petitioner is entitled for rent/ mesne profit/compensation from the date of illegal dispossession till the land is actually acquired or returned.

48. The Supreme Court in the case of **Hari Krishna Mandir Trust Vs. State of Maharashtra and Others** reported in (2020) 9 SCC 356 has held as under:-

“99. In case of dispossession, except under the authority of law, the owner might obtain restoration of possession by a proceeding for mandamus against the Government as held by this Court in *Wazir Chand v. State of H.P.* [*Wazir Chand v. State of H.P.*, AIR 1954 SC 415 : 1954 Cri LJ 1029] Admittedly, no compensation has been offered or paid to the appellant Trust. As observed by this Court in *K.T. Plantation (P) Ltd. v. State of Karnataka* [*K.T. Plantation (P) Ltd. v. State of Karnataka*, (2011) 9 SCC 1 : (2011) 4



SCC (Civ) 414] , even though the right to claim compensation or the obligation of the State to pay compensation to a person who is deprived of his property is not expressly provided in Article 300-A of the Constitution, it is inbuilt in the Article. The State seeking to acquire private property for public purpose cannot say that no compensation shall be paid. The Regional and Town Planning Act also does not contemplate deprivation of a landholder of his land, without compensation. Statutory authorities are bound to pay adequate compensation.

100. The High Courts exercising their jurisdiction under Article 226 of the Constitution of India, not only have the power to issue a writ of mandamus or in the nature of mandamus, but are duty-bound to exercise such power, where the Government or a public authority has failed to exercise or has wrongly exercised discretion conferred upon it by a statute, or a rule, or a policy decision of the Government or has exercised such discretion mala fide, or on irrelevant consideration.

101. In all such cases, the High Court must issue a writ of mandamus and give directions to compel performance in an appropriate and lawful manner of the discretion conferred upon the Government or a public authority.

102. In appropriate cases, in order to prevent injustice to the parties, the Court may itself pass an order or give directions which the Government or the public authorities should have passed, had it properly and lawfully exercised its discretion. In *Director of Settlements, A.P. v. M.R. Apparao* [*Director of Settlements, A.P. v. M.R. Apparao*, (2002) 4 SCC 638] . Pattanaik, J. observed: (SCC p. 659, para 17)

“17. ... One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the court must come to the conclusion that the



aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could be enforced by issuance of a writ of mandamus, “mandamus” means a command. It differs from the writs of prohibition or certiorari in its demand for some activity on the part of the body or person to whom it is addressed. Mandamus is a command issued to direct any person, corporation, inferior courts or Government, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. A mandamus is available against any public authority including administrative and local bodies, and it would lie to any person who is under a duty imposed by a statute or by the common law to do a particular act. In order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right *must be subsisting on the date of the petition* (see *Kalyan Singh v. State of U.P.* [*Kalyan Singh v. State of U.P.*, AIR 1962 SC 1183]). The duty that may be enjoined by mandamus may be one imposed by the Constitution, a statute, common law or by rules or orders having the force of law.”

(emphasis in original)

103. The Court is duty-bound to issue a writ of mandamus for enforcement of a public duty. There can be no doubt that an important requisite for issue of mandamus is that mandamus lies to



enforce a legal duty. This duty must be shown to exist towards the applicant. A statutory duty must exist before it can be enforced through mandamus. Unless a statutory duty or right can be read in the provision, mandamus cannot be issued to enforce the same.

104. The High Court is not deprived of its jurisdiction to entertain a petition under Article 226 merely because in considering the petitioner's right to relief, questions of fact may fall to be determined. In a petition under Article 226, the High Court has jurisdiction to try issues both of fact and law. Exercise of the jurisdiction is, it is true, discretionary, but the discretion must be exercised on sound judicial principles. Reference may be made inter alia to the judgments of this Court in *Gunwant Kaur v. Municipal Committee, Bhatinda* [*Gunwant Kaur v. Municipal Committee, Bhatinda*, (1969) 3 SCC 769] and *State of Kerala v. M.K. Jose* [*State of Kerala v. M.K. Jose*, (2015) 9 SCC 433] . In *M.K. Jose* [*State of Kerala v. M.K. Jose*, (2015) 9 SCC 433] , this Court held: (SCC pp. 442-43, para 16)

“16. Having referred to the aforesaid decisions, it is obligatory on our part to refer to two other authorities of this Court where it has been opined that under what circumstances a disputed question of fact can be gone into. In *Gunwant Kaur v. Municipal Committee, Bhatinda* [*Gunwant Kaur v. Municipal Committee, Bhatinda*, (1969) 3 SCC 769] , it has been held thus: (SCC p. 774, paras 14-16)

‘14. The High Court observed that they will not determine disputed question of fact in a writ petition. *But what facts were in dispute and what were admitted could only be determined after an affidavit-in-reply was filed by the State.* The High Court,



however, proceeded to dismiss the petition in limine. *The High Court is not deprived of its jurisdiction to entertain a petition under Article 226 merely because in considering the petitioner's right to relief questions of fact may fall to be determined. In a petition under Article 226 the High Court has jurisdiction to try issues both of fact and law. Exercise of the jurisdiction is, it is true, discretionary, but the discretion must be exercised on sound judicial principles.* When the petition raises questions of fact of a complex nature, which may for their determination require oral evidence to be taken, and on that account the High Court is of the view that the dispute may not appropriately be tried in a writ petition, the High Court may decline to try a petition. Rejection of a petition in limine will normally be justified, where the High Court is of the view that the petition is frivolous or because of the nature of the claim made dispute sought to be agitated, or that the petition against the party against whom relief is claimed is not maintainable or that the dispute raised thereby is such that it would be inappropriate to try it in the writ jurisdiction, or for analogous reasons.

15. From the averments made in the petition filed by the appellants it is clear that in proof of a large number of allegations the appellants relied upon documentary evidence and the only matter in respect of which conflict of facts may possibly arise related to the due publication of the notification



under Section 4 by the Collector.

16. In the present case, in our judgment, the High Court was not justified in dismissing the petition on the ground that it will not determine disputed question of fact. The High Court has jurisdiction to determine questions of fact, even if they are in dispute and the present, in our judgment, is a case in which in the interests of both the parties the High Court should have entertained the petition and called for an affidavit-in-reply from the respondents, and should have proceeded to try the petition instead of relegating the appellants to a separate suit.”

(emphasis in original and supplied)

49. Thus, it is clear that although the right to claim compensation or obligation of State to pay compensation to a person, who is deprived of his property, is not expressly provided under Article 300-A of the Constitution of India, but it is inbuilt in the Article and the State, who has acquired the private property for public purposes, cannot say that no compensation shall be paid. The statutory authorities are bound to pay adequate compensation for illegally dispossessing the petitioner from her private land.

50. Accordingly, Shri R.K. Sanghi submitted that since more than 29,150 sqft of land, has been illegally taken by the respondents no.1 and 2 by dispossessing the petitioner, therefore, she is entitled for mesne profit/compensation at the rate of Rs.1,000/- per day, i.e. Rs.30,000/- per month. However, it was submitted by counsel for the State as well as Shri Deepak Saxena, Collector, Jabalpur that petitioner is not entitled



for any compensation and if this Court is inclined to grant compensation, then the Collector, Jabalpur has to seek instructions from the State.

51. The aforesaid submission made by Shri Deepak Saxena, Collector, Jabalpur is shocking in the light of judgment passed by Supreme Court in the case of **Hari Krishna Mandir Trust (supra)**. **Furthermore, that matter is pending for the last 8 years and the authorities are not doing anything except shifting the file from their table to the table of respondent no.3. It is once again clarified that the N.H.A.I. has specifically claimed that they are not in need of land in dispute.**

52. Thus, it is clear that no one can be deprived of her right to property which is not only a Constitutional one, but is also a human right. The State authorities cannot act as goons thereby dispossessing any person from his/her property and then claiming that they will not pay any compensation/rent/mesne profit to the illegally dispossessed person, specifically when they sat over the matter for 17 years, i.e. from 3/7/2007, when they themselves had decided that the land should be acquired. Thus, it is clear that the State authorities are not ready to respect the law of land and they are acting as per their own wishes.

53. Even the Collector by its order dated 3/7/2007 had held that the land was not acquired and since it is to be retained therefore, for that purpose acquisition proceedings be initiated. Said order of the Collector was in compliance of the order dated 21/8/2006 passed by this Court in Writ Petition No.380/2005. However, it is as clear as noon day that the order dated 3/7/2007 was never complied with and no action was taken in compliance of said order. Therefore, it is clear that the order dated



3/7/2007 was passed by way of paper formality in order to avoid flouting of order passed by this Court, however, the intention of Collector, Jabalpur was never to give effect to said order and the solitary intention of the Collector, Jabalpur was to retain the land without acquiring the same. It is really unfortunate that this petition is pending since 2016. For the last 8 years, no effective action was taken by the Collector, Jabalpur to comply the order dated 3/7/2007 passed by his own predecessor as well as to comply the orders passed by the Civil Court as well as High Court. Thus, intention of the Collector, Jabalpur is writ large and he is not inclined to obey the order passed by the High Court. When this Court passed a detailed order on 23/9/2024, still the Collector, Jabalpur instructed the SDM, Adhartal, District Jabalpur to file an affidavit only to the effect that the land would be acquired, however, nothing has been shown as to why no proceedings have been initiated for acquisition of the said land. It has also not been clarified that when N.H.A.I. doesnot require the land in question, then for what purposes, the Collector, Jabalpur want to acquire the same. Furthermore, this Court by order dated 21/8/2006 had observed that in case if the State Government decides to return the land, then the petitioner shall be entitled for compensation as per Section 48 of the Land Acquisition Act, 1894. Compensation under Section 48 of the Land Acquisition Act is to be ascertained by Collector. When this Court asked a specific question to Shri Deepak Saxena, Collector, Jabalpur as to whether the State Government is ready to pay any compensation to the petitioner for illegally depriving her from possession of the land in dispute, then it was arrogantly submitted by the Collector, Jabalpur that the petitioner is only entitled for compensation which will be determined under the



acquisition proceedings. How the State Government can deprive a person from his/her Constitutional as well as human right as enshrined under Article 300-A of the Constitution of India? If the State Government had decided to return the land, then the petitioner was entitled for compensation as per Section 48 of the Land Acquisition Act and now once the State Government has decided to retain the land, then how the State Government can refuse to pay rent/mesne profit/compensation to the petitioner for illegally depriving her from the land in dispute? Since the provisions of Section 48 of the Land Acquisition Act, 1894 would not be applicable as the State Government has decided to retain the land, therefore, this Court put a specific question to Shri Deepak Saxena, Collector, Jabalpur “as to what should be the appropriate compensation for illegally depriving the petitioner from her land?” However, it was repeatedly submitted by Shri Saxena, Collector, Jabalpur that the petitioner is entitled only for compensation which shall be determined under the acquisition proceedings. Thus, it is clear that the solitary intention of the Collector, Jabalpur is to somehow keep the proceedings pending by flouting the orders passed by the Court and without respecting the Constitutional right of the petitioner as enshrined under Article 300-A of the Constitution of India.

What should be the appropriate compensation for illegally dispossessing the Petitioner?

54. As held by Supreme Court in the case of **Hari Krishna Mandir Trust (supra)** payment of compensation on account of illegal dispossession by State is inbuilt under Article 300-A of Constitution of India.



55. Although the petitioner has claimed compensation at the rate of Rs.1,000/- per day for illegally taking possession of 29150 sq ft of land, but this Court is of considered opinion that the said rate is on a higher side, therefore, by reserving the right of the petitioner for claiming higher compensation, it is directed that the **State Government shall pay a compensation of Rs.10,000/- per month to the petitioner for illegally dispossessing her from her 29150 sq ft of land w.e.f.5/2/1988.** The compensation at the rate of Rs.10,000/- per month shall be paid to the petitioner till the land is duly acquired under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. However, the petitioner can file a Civil Suit for enhancement of compensation, in case if she is not satisfied with the amount of compensation fixed by this Court. In case if the civil suit is filed, then the same shall be decided without getting prejudiced or influenced by the compensation amount so awarded by this Court.

Conduct of Collector, Jabalpur

56. So far as conduct of Collector, Jabalpur in sitting over the matter and frustrating the valuable human rights as well as Constitutional rights of the petitioner is concerned, the same is **condemnable** and cannot be approved. Initially, the Collector passed an order dated 3/7/2007, which actually was never meant to be followed and it proved to be mere a paper formality. This petition was filed in the year 2016, therefore, the Collector, Jabalpur was well aware of the background of the case, but nothing was done and even no steps were taken for acquiring the land. When this Court by order dated 23/9/2024 pointed out the entire aspect of the matter, still the Collector, Jabalpur directed the SDM, Adhartal,



District Jabalpur to file a simple affidavit pointing out that the land will be acquired without initiating any proceedings for acquisition. The reply which was filed along with IA No.13772/2024 was completely silent with regard to the compensation which could have been paid to the petitioner for illegally dispossessing her from her property. Since the Government Advocate as well as SDM, Adhartal, District Jabalpur had made a specific submission that the said affidavit was filed on the instructions of Collector, Jabalpur, therefore, Collector, Jabalpur was also heard and he by adopting an adamant view submitted that petitioner is not entitled for any compensation for her illegal dispossession. Thus, it is clear that the sole intention of the Collector, Jabalpur is to frustrate the orders passed by this Court on 21/8/2006.

57. Under these circumstances, this Court is of the considered opinion that it is a fit case for initiating contempt proceedings against Shri Deepak Saxena, Collector, Jabalpur. Accordingly, issue notice to Shri Deepak Saxena, Collector, Jabalpur to show cause as to why proceedings for contempt may not be initiated against him for flouting the orders passed by this Court on 21/8/2006 in Writ Petition No.380/2005. Office is directed to register a separate case.

Whether the compensation for illegally dispossessing the Petitioner, should be borne out of public exchequer, or the same is to be recovered from erring Collectors, Jabalpur.

58. At the outset, it is mentioned that N.H.A.I. has specifically taken a stand that the land in question is not required and the N.H.A.I. came into picture in the year 2010. Therefore, it is clear that the liability to pay compensation for illegal dispossession of petitioner cannot be fastened on N.H.A.I.



59. The controversy as to whether land of the petitioner was acquired or not had already come to an end by award dated 26/12/2001 passed by 9th Additional District Judge, Jabalpur in Revision No.1/1998. In spite of that, the respondents did not initiate any proceedings for acquisition of land, which has resulted in a direction to the respondents to pay compensation amount to the petitioner from the date of her illegal dispossession, i.e.5/2/1988 till the land is acquired or it is returned. This misadventurous act of Collectors, Jabalpur has resulted in financial burden on the State Government where the authorities had acted in a *malafide* manner and contrary to the orders passed by the Civil Court as well as the High Court and also against the order passed by their own predecessor and thus, it can be said that it was a deliberate act on the part of Collectors, Jabalpur thereby making himself responsible for bearing the financial burden. Accordingly, it is directed that whatever compensation is paid by the State Government to petitioner on account of her illegal dispossession, the same shall be recovered from the erring Collectors, Jabalpur and burden shall not be put on public exchequer. Arrears of compensation from 5/2/1988 till today shall be paid positively by State Government within a period of two months from today and the Chief Secretary, State of Madhya Pradesh, Bhopal shall file his report to the Registrar General, High Court of Madhya Pradesh, Jabalpur about compliance of the aforesaid direction.

60. With aforesaid observations, the petition is finally **disposed of**, with cost of Rs.20,000/- to be deposited by Collector, Jabalpur within a period of one month from today, failing which the Registrar General shall initiate the proceedings for recovery of cost and shall also register a separate case for contempt of Court.



61. It is made clear that the cost so deposited by Collector, Jabalpur shall not be reimbursed by the State Govt. and the cost shall be deposited by a cheque of personal bank account of Collector, Jabalpur.

62. The petitioner shall be entitled to withdraw the cost so deposited by Collector, Jabalpur.

(G.S. AHLUWALIA)
JUDGE

S.M.