



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

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 11th OF JANUARY, 2025

WRIT APPEAL No. 117 of 2025

SAIRA BEE AND OTHERS

Versus

***URBAN ADMINISTRATION AND DEVELOPMENT DEPARTMENT
AND OTHERS***

Appearance:

Shri Akash Rathi - Advocate for the appellants.

*Shri Bhuwan Gautam - Government Advocate for the respondent /
State.*

ORDER

Per: Justice Vivek Rusia

Appellants have filed this appeal being aggrieved by the impugned order dated 09.12.2024, whereby the Writ Court has dismissed a bunch of writ petitions challenging the award dated 12.03.2024 and amended award dated 10.06.2024.

02. The appellants reside near Takiya Masjid, Nizamuddin Colony, Jaisinghpura, Ujjain (M.P.). Shri Mahakaleshwar Mandir Prabandhan Committee Ujjain requested the State Government to acquire a large area of land to extend of parking area of vehicles of the visitors at Mandir and Mahakaal Lok Parisar, situated in front of 'Triveni Sangrahalaya'. After the giving of necessary approval by the State of MP, the District Collector-cum-Land Acquisition Officer by invoking



the urgency clause under Section 40 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "Act, 2013") issued a notification dated 29.11.2022 for acquiring the land bearing survey Nos.2330/1/1 area 0.1670 hectare, 2330/2 area 0.0280 hectare, 2328/1 area 0.0480 hectare, 2324/1 area 0.3310 hectare, 2326 area hectare 0.2820, 2327 area hectare 0.5230, 2325/1 area hectare 0.5770, 2329 area hectare 0.0560, 2324/2/1/1 area hectare 0.1050, 2324/2/2/1 area hectare 0.0060, 2325/2/1/1 area hectare 0.0120, total area 2.135 hectare.

03. The notification was published in the official Gazette of Madhya Pradesh as well as in local newspapers under Section 11 of the Act, 2013. The appellants and other residents on the said land i.e. approximately more than 358 persons submitted an objection before the Collector and their objections were rejected by reasoned order. Thereafter, the notification under Section 19 of Act, 2013 was issued followed by notice under Section 21 of Act, 2013 on 26.12.2024. After completing due process, the final award dated 12.03.2024 and amended award 10.06.2024 were passed and all the local residents were informed about them by issuing notice under Section 37 of the Act, 2013 for the purpose of details of saving bank account numbers for deposition of the amount.

04. The details of compensation granted to these appellants are mentioned in para XIV of the memo of appeal. The appellants/writ petitioners without challenging the award by way of reference under Section 64 of the Act, 2013 directly approached the High Court by way of Writ Petition No.19395 of 2024, in which notices were issued and interim protection was granted. Thereafter, the State Government filed a reply. Thereafter now vide order dated 09.12.2024 the writ court has dismissed all the bunch of writ petitions. However, the writ petitioners



have been granted the liberty to approach the authority to seek a reference under Section 64 of the Act, 2013 within 30 days from the date of receipt of a certified copy of the order.

05. After one month, the Land Acquisition Officer and SDO issued a final notice dated 09.01.2025 to the remaining limited occupants calling upon them to vacate the land and remove the construction within 24 hours as their writ petitions have been dismissed by the High Court. Hence, out of 33 writ petitioners, only 22 appellants have approached this Court by way of writ appeal. The contents of the notice dated 09.01.2025 reveal that the amount of compensation has already been deposited in the account of the appellants.

06. Shri Akash Rathi, learned counsel for the appellants submits that the entire land acquisition proceedings and the award vitiate as there is no non-compliance of the mandate of Sections 4 & 5 of the Act, 2013. There is no social impact assessment before initiating the land acquisition proceedings by the State of Madhya Pradesh. It is therefore submitted that the State Government has not come up with the rehabilitation and resettlement of these writ petitioners / appellants who have been residing on the acquired land for the last 30 years. The amount of compensation paid to them is not sufficient for their settlement and rehabilitation, therefore, the impugned order be set aside.

07. Shri Bhuwan Gautam, learned Government Advocate appearing for the respondent / State opposes the aforesaid prayer by submitting that the Writ Court has considered all the grounds raised by the appellants in the writ petitions and after considering all of them has rightly dismissed the writ petition, therefore, is no scope of interference hence the writ appeal is liable to be dismissed. It is therefore submitted that the entire project of development of Mahakal Parisar is held up



because of these limited appellants as they have not vacated the acquired land even after acceptance of compensation.

We have heard learned counsel for both the parties and perused the record.

08. Admittedly, the appellants/writ petitioners have a remedy to seek a reference under Section 64 of the Act, 2013. Section 64 of Act, 2013 is reproduced below:

64. Reference to Authority.-(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 Authority, as the case may be, whether his objection is to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested: Provided that the Collector shall, within a period of thirty days from the date of receipt of the application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(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 21, or within six months from the date of the Collector's award, whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.

09. It is clear from the language of the aforesaid section that any person interested who has not accepted the award may seek a reference in respect of the measurement of the land, amount of compensation, **right of rehabilitation and resettlement** under Chapter V and VI or the apportionment of the compensation, therefore, if the petitioners were dissatisfied with the non-providing of rehabilitation and resettlement,



the remedy was under Section 64 of Act, 2013. The authority under Section 64 of Act, 2013 is competent to decide the issue of settlement and rehabilitation also.

10. Even otherwise, by way of the writ petition, the writ petitioners sought the quashment of the award dated 12.03.2024 and amended award 10.06.2024 and also sought direction to comply with the provision relating to social impact assessment as well as rehabilitation and resettlement for the affected families. The writ petitioners did not challenge the notifications issued under Section 40 of the Act of 2013 by the respondents invoking the urgency clause and exemption granted under Section 9 of the Act of 2013. The appellants straightway challenged the final award passed after the issuance of the notifications from time to time under the Act of 2013. The Writ Court has observed that out of 250 families, more than 230 families had accepted the compensation and vacated the land. Now only 20 families i.e. appellants remain, who have already accepted the amount of compensation as mentioned in the last notice dated 09.01.2025. The Writ Court has already granted the liberty to them to challenge the award under Section 64 of Act, 2013, therefore, we are not inclined to interfere with the impugned order.

11. In the case of *U.P. Avas Vikas Parishad V/s Chandra Shekhar* reported in **2024 INSC 210** the Apex Court has granted exemption from submission of Social Impact Assessment in a given facts and circumstances, relevant para is as follows:-

20. We may hasten to add that the procedure prescribed under Chapter II of the 2013 Act, mandates to carry out the Social Impact Assessment Study in certain situations. The adherence to such a cumbersome procedure in the instant case will be an exercise in futility for two reasons. Firstly, a major part of the acquired land has already been utilized for the notified public purpose. Secondly, the study referred to above, will delay the assessment and payment of compensation to the true tenure holders/owners of Khasra No.673.



Consequently, we direct the appropriate Government to dispense with the procedure contemplated under Chapter II of the 2013 Act.

12. The Writ Court has granted 30 days' time to seek a reference before the competent authority, but instead of filing the reference, appellants have come up with the appeal and the 30 days' time has already expired. In the interest of justice, we hereby grant a further 30 days' time to approach the Authority.

13. So far as the 24 hours time given in the notice dated 09.01.2025 is concerned, it is admittedly not sufficient however, after the dismissal of the writ petition, one month has already passed, therefore, in the interest of justice, we hereby grant 7 days to the appellants / writ petitioners to vacate and remove the structures safely. After the expiry of 7 days from today, respondents shall be free to take action.

14. With the aforesaid direction, this Writ Appeal stands **dismissed**.

(VIVEK RUSIA)
JUDGE

(SANJEEV S KALGAONKAR)
JUDGE

Divyansh