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WP-9390-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

ON THE 3rd OF APRIL, 2025WRIT PETITION No. 9390 of 2025*LALAN GOND**Versus**UNION OF INDIA AND OTHERS*

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Appearance:

Shri Prakash Upadhyay - Senior Advocate with Shri Brahmendra
Prasad Pathak - Advocate for petitioner.

Shri Aditya Adhikari - Senior Advocate with Shri Ashish Prasad -
Advocate and Shri Sharad Chandra Khare - Advocate, Shri Kaustubh Mishra
- Advocate, Shri Pruthvi Dhinoja - Advocate and Ms. Sachi Khare -
Advocate for respondent No.5.

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ORDER

Petitioner has filed this petition under Article 226 of Constitution of India challenging order dated 12/05/2022 contained in Annexure P-2. Annexure P-2 is notification issued by Office of Collector, Singrauli. Notification was issued under Section 11(1) of Right to Fair Compensation and transparency in Land Acquisition Rehabilitation in Resettlement Act, 2013 (hereinafter referred as to "RR Act of 2013"). It was notified that in District Singrauli, Village Deori private land measuring 35.6700 hectare is required for public purpose i.e. mining of coal. Khasra numbers were also specified.



2. Learned senior counsel appearing for petitioner submitted that petitioner is owner of land bearing Khasra No.731/2 measuring 1 hectare in Village Deori, District Singrauli. Land is being acquired for Bandha Coal Block for respondent No.5 company i.e. M/s EMIL Mines and Mineral Resources Ltd., Bandha. Land has been allocated by order dated 03/03/2021 by Government of India to respondent No.5. Allocation order is passed under Rule 8(5) of Coal Block Allocation Rules, 2017 read with 11A of RR Act of 2013. After allotment, proceedings were initiated for land acquisition. It is submitted that instead of acquiring land under Coal Bearing Areas (Acquisition and Development) Act, 1957 (hereinafter referred to as "CBA Act of 1957") authorities have initiated acquisition under RR Act of 2013. It is submitted that notification issued under Section 11 is without jurisdiction. Further it is submitted that Section 2(b)(iii) of RR Act of 2013 specifies that the RR Act of 2013 will be applicable to projects for industrial corridors or mining activities, but Section 105(1) of RR Act of 2013 limits the application of RR Act of 2013 over the enactments mentioned in Fourth Schedule. Fourth Schedule prepared under Section 105 of RR Act of 2013. Fourth Schedule includes Coal Bearing Areas (Acquisition and Development) Act, 1957. Thus, applicability of RR Act of 2013 is barred for land acquisition for coal mining purposes. It is submitted that if two laws are applicable, then as per principle of *generalis specialibus non derogant* specific law will take precedence over general law. Legislature has made specific law for acquisition of land i.e. CBA Act of 1957, therefore, RR Act of 2013 will not be applicable for acquisition. It is also submitted that 7th Schedule of



Constitution of India contains Union List and Entry 54 of Union List is in respect of regulation of mines and mineral development, therefore, acquisition is to be made under CBA Act of 1957. It is submitted that CBA Act of 1957 takes care of diminution in value of land due to commencement of mining activities, but said aspect is not taken care of under RR Act of 2013. CBA Act of 1957 is comprehensive act for acquisition of coal mining purposes and more beneficial to the affected family then RR Act of 2013. Specific provision for acquisition of land and determination of compensation has also been laid down in CBA Act of 1957. On basis of aforesaid submission learned senior counsel appearing for petitioner submitted that welfare of people is supreme law. Section 105 bars applicability of RR Act of 2013 for acquisition of land for purpose of coal mining. CBA Act of 1957 is complete code and more beneficial to the land owners and notification made under Section 11 of RR Act of 2013 by Collector is without jurisdiction and the same be set aside and prayed to initiate land acquisition proceedings under CBA Act of 1957.

3. Reply has not been filed by respondent Nos. 1 to 4 - State.

4. Respondent No.5 has filed applications for urgent hearing, vacating stay and counter affidavit. Pleadings and documents filed alongwith said applications were relied upon by respondent No.5.

5. Learned senior counsel appearing for respondent No.5 submitted that reliance placed on Section 105(1) of RR Act of 2013 and 4th Schedule of RR Act of 2013 is misconceived. Provisions of CBA Act of 1957 is applicable when land is acquired by Central Government. Central



Government can thereafter vests land in Central Government company. Under CBA Act of 1957 State Government cannot acquire coal bearing land. Government Company is defined in Section 2(b) of CBA Act of 1957, which lays down that Government Company means Government Company defined in Section 617 of Companies Act, 1956. Legislation of CBA Act of 1957 is for acquisition of coal bearing act by Central Government for Government Company only. It is submitted by him that Section 105(1) of RR Act of 2013 is subject to Section 105(3) of RR Act of 2013. Under Section 105(3) of RR Act of 2013 Central Government is obligated to direct by notification that beneficial provisions of RR Act of 2013 i.e. First Schedule, Second and Third Schedule shall apply to the cases of land acquisition done under enactments mentioned in Fourth Schedule of 105(1) of RR Act of 2013. It is submitted that Central Government in exercise of powers under Section 113(1) read with Section 105(3) of RR Act of 2013 has issued S.O.No.2368(E) dated 28/08/2015 directing that beneficial provision available to land owners under RR Act of 2013 shall apply to all cases of land acquisition to similarly situated land owners whose land are being acquired under enactment of Fourth Schedule of RR Act of 2013. Thus, provisions of RR Act of 2013 is made applicable in cases of land acquisition done under CBA Act of 1957. Reliance is placed on judgment passed by Apex Court in case of *Mahanadi Coal Fields Ltd. & Another Vs. Mathias Oram & Others, (2023) 16 SCC 11*. In said judgment it was held that payment of compensation under CBA Act of 1957 does not arise after 28/08/2015. Statutory regime of CBA Act of 1957 is superseded with provision of First



Schedule of RR Act of 2013. Principle of determination of compensation as outlined in First, Second and Third Schedule of RR Act of 2013 are the same whether the land is being acquired under the CBA Act of 1957 or RR Act of 2013. No prejudice will cause to land owners. It is submitted that CBA Act of 1957 is special Act for acquisition of land for Government Companies, but same will not apply when acquisition of land is to take place for private Companies. However, compensation is to be paid as per First, Second and Third Schedule, therefore, no prejudice is caused to petitioner. It is submitted that RR Act of 2013 as well as CBA Act, 1957 is enacted by Parliament. Land in question is being acquired in State of M.P. in District Singrauli, therefore, appropriate Government is State Government for acquisition of land. It is submitted that it is also misconceived that CBA Act of 1957 is more beneficial than RR Act of 2013 as it provides higher compensation. It is further submitted that when land is acquired for private company for public purpose, then ownership after acquisition vests with private company. Respondent No.5 is acquiring body under RR Act of 2013 and had deposited 190 crores towards compensation for acquisition of land in respect to Bandha Coal Block and additional amount of Rs.150 crores is deposited for other compliances under RR Act of 2013. It is submitted that respondent No.5 company will suffer adversely as it is loosing money after investment. Petitioner has participated in land acquisition proceedings and has also filed its objection and petition is only filed as an after thought to inflate compensation amount. Respondent No.5 is incurring huge expenditure for operationalization of project and rehabilitation and resettlement of persons



and families of the project. In view of aforesaid submissions, prayer is made for vacating interim stay order granted in favour of petitioner and dismissing the Writ Petition.

6. Heard learned counsel for the parties.

7. Coal Bearing Areas (Acquisition and Development) Act, 1957 was formulated for purposes of greater public control over coal mining industry and its development by providing for acquisition by State of unworked land containing area likely to contain coal deposits or rights in and over such land and for extinguishment or modification of rights accruing over such coal bearing areas by virtue of any agreement, lease or licence.

8. Central Government issued preliminary notification under Section 4(1) of CBA Act of 1957 for intention to do prospecting over land or likely to be found. After preliminary notification it shall be lawful for authorities or servants and workmen of Central Governments to enter upon land and survey any land in locality, dig or bore sub-soil in respect of discovering prospects of coal over the land in question. If notification is issued under Section 4(1) of CBA Act of 1957 by Central Government, then any prospecting license or mining lease granted in respect of said land to any other person will cease to have effect. If survey done under Section 4 of CBA Act of 1957 is successful and coal is found or is obtainable over the land in question, then Central Government issues notice of its intention to acquire whole or part of land prospected. Objection to acquisition are invited. Thereafter, there is declaration under Section 9 of CBA Act of 1957 is published in official Gazette. After publication of notification under Section 9 of CGA Act of



1957 land vests absolutely in Central Government free from all incumbrances. If mining lease in respect of such land has been granted by State Government to any other person, then such mining lease is deemed to have been granted to the Central Government. After vesting of land or rights in Central Government, Central Government may vest the right in a Government Company on satisfaction of conditions mentioned in Section 11.

9. As per Section 105(3) of RR Act of 2013 Central Government by notification within one year of commencement of RR Act of 2013 may direct that provision of this Act relating to determination of compensation in accordance with First Schedule rehabilitation and resettlement in accordance with Second and Third Schedule being beneficial to affected families shall also apply to acquisition of land in respect of enactments made under Fourth Schedule which also includes CBA Act of 1957.

10. Ministry of Rural Development has published notification in Gazette of India dated 28/08/2015 S.O.No.2368(E) after RR Act of 2013 was brought into force i.e. from 01/01/2014. The provision for rehabilitation, resettlement and compensation is to be calculated in accordance with First, Second and Third Schedule in respect of enactments specified in Fourth Schedule. CBA Act, 1957 is also included in Fourth Schedule, therefore, calculation of resettlement, rehabilitation and compensation is to be made as per First, Second and Third Schedule of RR Act of 2013.

11. Now there is no dispute that calculation of compensation is to be made as per provisions of RR Act of 2013 mentioned in First, Second and



Third Schedule for acquisition of land under both the acts, therefore, there is uniformity in payment of compensation for acquisition of land either under CBA Act of 1957 or acquisition of land under RR Act of 2013 and a person whose land is acquired for any public purpose under RR Act of 2013 or under enactments mentioned in Fourth schedule of RR Act, 2013 will get equal compensation and there is no discrimination in awarding compensation when acquisition of land is made under different acts and a uniform and standardized way of calculation of compensation has been laid down by the Legislature.

12. Now question before this Court is whether procedure prescribed in acquisition of land under CBA Act of 1957 or procedure as prescribed under RR Act of 2013 is to be followed for acquisition of lands in favour of respondent No.5 Company. From scheme of CBA Act of 1957 and RR Act of 2013 it is clear that both operates in different fields. Acquisition of land when it is to be made by Central Government, which may later on be vested to Government Companies, procedure which is to be followed is under CBA Act of 1957 and when acquisition is for purposes mentioned in RR Act of 2013 procedure is to be followed under RR Act of 2013. There is no clashing of CBA Act of 1957 and RR Act of 2013 in view of Section 105(1) of RR Act of 2013. Section 105(1) of RR Act 2013 lays down that RR Act of 2013 will not apply to enactments in relation to land acquisition as specified in Fourth Schedule, which also includes CBA Act of 1957, which at first instance gives an impression that procedure for acquisition of land for coal mining is not to be done under RR Act of 2013 since CBA Act of 1957 is



mentioned in Fourth Schedule. However, such first impression fades away when both the Acts are read minutely as CBA Act of 1957 is only made for acquisition of land for Central Government or for Government Companies. No land can be acquired under CBA Act of 1957 for private companies, therefore, RR Act of 2013 will not apply for acquisition of land when acquisition is to be made for Government Company or for Central Government, but said act will apply when acquisition is to be made for other companies or for State Government. Here acquisition of land is to be made for respondent No.5 which is private company, therefore, CBA Act of 1957 will not apply and provision of Section 105(1) will not bar applicability of RR Act of 2013 for acquisition of land.

13. In view of above discussion challenge made to notification issued under Section 11 of RR Act of 2013 for acquisition of land for Bandha Coal block fails.

14. Writ petition is dismissed.

(VISHAL DHAGAT)
JUDGE

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