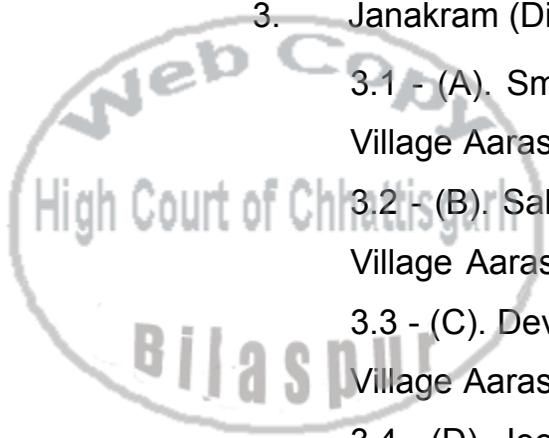


**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No.72 of 2021**

1. Nokhram (Died) Through Legal Heirs-
 - 1.1 - (A). Smt. Girja Bai W/o Late Nokhram Aged About 60 Years R/o Village Kutighat, Block Akaltara, District Janjgir Champa Chhattisgarh.
 - 1.2 - (B). Ajay Kumar Kashyap S/o Nokhram Aged About 40 Years R/o Village Kutighat, Block Akaltara, District Janjgir Champa Chhattisgarh.
 - 1.3 - (C). Manoj Kumar Kashyap S/o Late Nokhram Aged About 37 Years R/o Village Kutighat, Block Akaltara, District Janjgir Champa Chhattisgarh.
2. Ramayan Sahu S/o Bajinath Sahu Aged About 35 Years R/o Village Aarasmeta, Block Akaltara, District Janjgir Champa, Chhattisgarh.
3. Janakram (Died) Through Legal Hrs.
 - 3.1 - (A). Smt. Rupa Bai W/o Late Janakram Aged About 85 Years R/o Village Aarasmeta, Block Akaltara, District Janjgir Champa Chhattisgarh.
 - 3.2 - (B). Sahettar Jaiswal S/o Late Janakram Aged About 64 Years R/o Village Aarasmeta Block Akaltara District Janjgir Champa Chhattisgarh.
 - 3.3 - (C). Devkumar Jaiswal S/o Late Janakram Aged About 55 Years R/o Village Aarasmeta, Block Akaltara, District Janjgir Champa Chhattisgarh.
 - 3.4 - (D). Jeera Bai W/o Late Sahasram Aged About 55 Years R/o Village Aarasmeta, Block Akaltara District Janjgir Champa Chhattisgarh.
 - 3.5 - (E). Dilip Jaiswal S/o Late Sahasram Aged About 32 Years R/o Village Aarasmeta, Block Akaltara, District Janjgir Champa Chhattisgarh.
4. Daduram (Died) Through Legal Heirs
 - 4.1 - (A). Uttara Kumar Jaiswal S/o Late Daduram Aged About 32 Years R/o Village Aarasmeta, Block Akaltara, District Janjgir Champa Chhattisgarh.
 - 4.2 - (B). Nand Kumar Jaiswal S/o Late Daduram Aged About 28 Years R/o Village Aarasmeta, Block Akaltara, District Janjgir Champa Chhattisgarh.
5. Rajendra Jaiswal S/o Chamru Jaiswal Aged About 34 Years R/o Village Aarasmeta, Block Akaltara, District Janjgir Champa Chhattisgarh.
6. Leelaram (Died) Through Legal Heirs
 - 6.1 - (A). Smt. Sukrita Bai W/o Late Leelaram Aged About 54 Years R/o





Village Aarasmeta, Block Akaltara, District Janjgir Champa Chhattisgarh.
6.2 - (B). Munni Bai W/o Late Leelaram Aged About 50 Years R/o Village Aarasmeta, Block Akaltara, District Janjgir Champa Chhattisgarh.
6.3 - (C). Suman Kumar Jaiswal S/o Late Leelaram Aged About 19 Years R/o Village Aarasmeta, Block Akaltara, District Janjgir Champa Chhattisgarh.

---- Appellants

Versus

1. State of Chhattisgarh Through The Secretary, Revenue Department D.K.S. Bhawan, Raipur, Now Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
2. The Collector Janjgir Champa, District Janjgir Champa Chhattisgarh.
3. Sub Divisional Officer Janjgir Champa, District Janjgir Champa Chhattisgarh.
4. Lafarge India Limited Through Its Managing Director, Bhopal Nagar, Bilaspur, District Bilaspur Chhattisgarh.
5. Kanhaiya Sahu S/o Ritu Sahu Aged About 69 Years R/o Village Aarasmeta, Block - Akaltara, District Jangir Champa Chhattisgarh.

---- Respondents

(Cause-title taken from Case Information System)

| | |
|----------------------|--|
| For Appellants | : Mr. H.B. Agrawal, Senior Advocate with Mr. Yogesh Chandra, Advocate |
| For Respondent/State | : Mr. Vikram Sharma, Deputy Government Advocate |

Hon'ble Shri Arup Kumar Goswami, Chief Justice

Hon'ble Shri Sanjay K. Agrawal, Judge

Judgment on Board

Per Arup Kumar Goswami, Chief Justice

26.10.2021

Heard Mr. H.B. Agrawal, learned senior counsel with Mr. Yogesh Kumar Chandra for the appellants. Also heard Mr. Vikram Sharma, learned



Deputy Government Advocate appearing for the State/respondents No.1 to 3.
None appears for respondent No.4 as well as for respondent No.5.

2. It is to be noted that respondent No.5 was petitioner No.3 and he has not chosen to prefer this appeal.

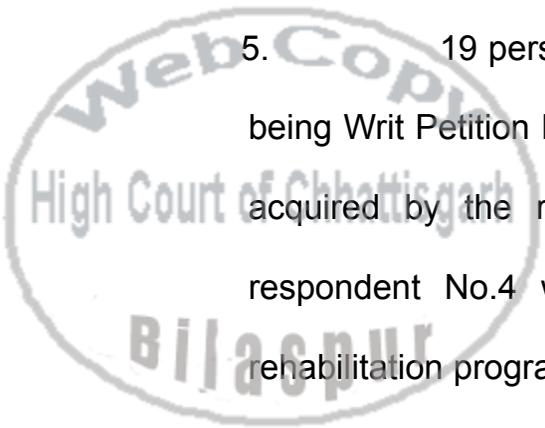
3. This writ appeal is presented against an order dated 11.06.2020 passed by learned Single Judge in Writ Petition (C) No.3151 of 2007, partly allowing the writ petition as indicated in paragraphs 10 and 11 of the impugned order.

4. The order impugned in the instant appeal is an order in the second round of litigation.

5. 19 persons including the present petitioners had filed a writ petition being Writ Petition No.476 of 2003 with the grievance that their lands had been acquired by the respondent No.2 for the purpose of leasing out to the respondent No.4 without any payment of compensation and without any rehabilitation programme.

6. By an order dated 20.02.2003, this Court disposed of the aforesaid writ petition providing that the petitioners may file a representation to the Collector along with the copy of the writ petition and copy of the order passed and in the event of filing of any such representation, the Collector would pass appropriate orders after hearing the petitioners. It was also provided that if aggrieved by any of the orders passed, the petitioners would be entitled to pursue remedies as may be available in law.

7. The writ petitioners had also filed a writ petition, registered as Writ Petition No.3703 of 2003, praying from restraining the respondents from interfering with the lands of the petitioners. On representation being made by the petitioners, the same came to be disposed of on 19.09.2003 as infructuous.





8. Subsequent thereto, this writ petition, out of which the instant appeal arises, came to be filed with prayers to issue a writ of mandamus directing the respondent No.4 to provide employment to the petitioners and also to pay compensation to them at the current rate of land of the area.

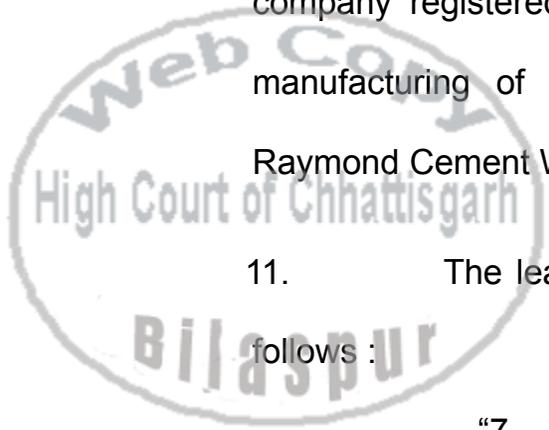
9. During the course of the proceedings, the petitioners No. 1, 3, 4 and 6 had expired and they are substituted by their legal representatives. Petitioner No.1 was a resident of village Kutighat and petitioners No.2 to 7 of village Aarasmeta and the extent of lands owned by them are mentioned in paragraph 5.6 of the writ petition.

10. Respondent No.4, to which reference is already made, is a company registered under the Companies Act, 1956 and is engaged in the manufacturing of Cement and the said company was earlier known as Raymond Cement Works Company.

11. The learned Single Judge in paragraphs 7 to 11 had observed as follows :

“7. The aforesaid affidavit filed by the State has not been disputed by the petitioners for long period of 7 years till date though the petitioners chose to move application seeking substitution of legal representatives of some of the petitioners, who died during the pendency of the writ petition. Therefore, the factual position as stated in the affidavit of the State has to be accepted.

8. That would mean that as far as petitioners except petitioners No.1 & 6 are concerned, their grievance with regard to employment has already been redressed.





9. Specific averments that though appointment letter was issued in favour of Manoj Kumar, S/o Nokhram/Petitioner No.1, he did not join, has not been disputed before this Court. Appointment letter (Annexure A/7) bears acknowledgement. All these facts have not been disputed by filing any reply or affidavit by the petitioners, particularly, legal representative of petitioner No.1/ Nokhram not even Manoj Kumar. Therefore, this factual dispute cannot be further gone into writ petition. It will be open for Manoj Kumar to take separate remedy if he has a case based on any enable claim.

10. As far as offer of employment to brother of petitioner No.6 is concerned, even according to the respondent, appointment letter could not be served because he was out of station. The legal representative of petitioner No.6 would be at liberty to approach the competent authority raising claim of appointment and in that event, the competent authority i.e. Collector of the Jurisdiction of the District shall cause an enquiry to be made in this regard and if it is found that appointment letter was not served on Pusauram, brother of petitioner No.6, necessary steps towards offer of employment to the person nominated by respondent No.4 shall be taken.

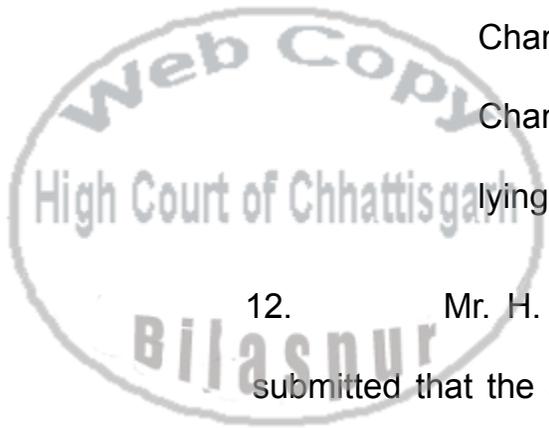




11. As far as claim of compensation is concerned, averments made in paragraph 5, particularly with reference to list Annexure A/5, it is clearly revealed that none of the petitioners accepted the compensation and their compensation was thereafter deposited with Tahsildar, Akaltara, District Janjgir-Champa. If the compensation so far has not been lifted by all other petitioners or legal representative of deceased petitioners, it will be open for them to approach the Sub-Divisional Officer, Janjgir-Champa and Tahsildar Akaltara, District Janjgir-Champa for release of compensation amount lying in their account forthwith.”

12. Mr. H. B. Agrawal, learned senior counsel for the appellants has submitted that the compensation computed is not in accordance with law and therefore, the writ petitioners did not accept the compensation amount, which is lying with the Government and the learned Single Judge having not adverted to the prayer made for payment of compensation on the basis of prevailing market rate, the impugned order is not sustainable in law.

13. So far as employment to be offered to the petitioners is concerned, the learned senior counsel submits that there is no surviving cause of action with regard to the same as employment has since been offered and therefore, this Court may confine its consideration only with regard to prayer for payment of compensation at the prevailing market rate. It is in this context, he has submitted that since the compensation has not been accepted by majority of the land owners, the Right to Fair Compensation and Transparency in Land





Acquisition, Rehabilitation and Resettlement Act, 2013 will come into play and compensation is to be determined on the basis thereof.

14. Refuting the submissions made by learned senior counsel, Mr. Vikram Sharma, learned Deputy Advocate General, appearing for the State/respondents No.1 to 3, submits that Writ Petition No.476 of 2003 was filed without disclosing the fact that the award had come to be passed before institution of the writ petition and it is only on the basis of the submissions advanced by the learned counsel for the petitioners in the aforesaid writ petition that this Court had directed the Collector to examine the issue and to pass appropriate orders after hearing the petitioners. He has pointed out that the Collector in his elaborate order dated 19.09.2003 had indicated that as an award was passed, he is not competent to record any opinion on the issue raised by the petitioners. It is also pointed out by him that order of the Collector is not under assailment in the writ petition and so also the original award passed by the Sub-Divisional Officer, Janjgir under Section 247 of the Chhattisgarh Land Revenue Code, 1959 (for short 'Code, 1959') on 20.06.2000. Accordingly, he submits that in the attending facts and circumstances of the case, the order of the learned Single Judge does not warrant any interference and the writ appeal is liable to be dismissed.

15. We have considered the submissions of learned counsel for the parties and have perused the materials on record.

16. That the lands of the petitioners had been acquired under the provisions of the Code, 1959 is not in dispute. What is also not in dispute is that an award was passed on 20.06.2000 by the Sub-Divisional Officer, Janjgir. The copy of the award was annexed as part of the affidavit filed by the respondents No.1 to 3 in the writ petition on 07.08.2013. The amount of compensation



payable in respect of the petitioners is also indicated in the Annexure of the award. Though copy of the affidavit was served upon the learned counsel for the writ petitioner, no response was filed with regard to the aforesaid affidavit.

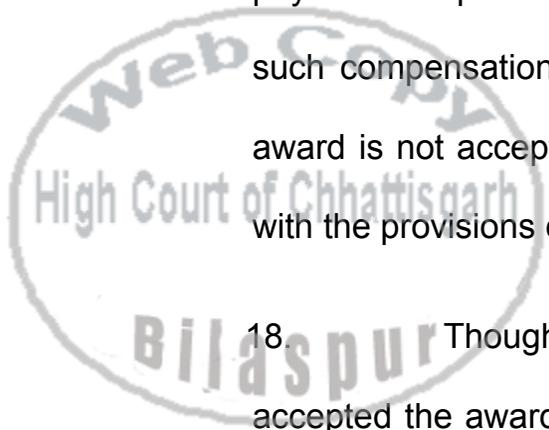
17. Section 247(1) of the Code, 1959 provides that unless it is otherwise expressly provided by the terms of a grant made by the Government, the right to all minerals, mines and quarters shall vest in the State Government which shall have all powers necessary for the proper enjoyment of such rights. Section 247(4) of the Code, 1959 provides that if, in the exercise of the right over any land, the rights of any person are infringed by the occupation or disturbance of the surface of such land, the Government or its assignee shall pay to such persons compensation for such infringement and the amount of such compensation shall be calculated by the Sub-Divisional Officer or, if his award is not accepted, by the Civil Court, as nearly as may be, in accordance with the provisions of the Land Acquisition Act, 1894.

18. Though Mr. Agrawal has submitted that the petitioners had not accepted the award, none had taken recourse to pursue their remedies before the Civil Court.

19. The award dated 20.06.2000 recites that the opposite parties therein are Tiharu and 46 others. The present writ petition was filed by only 7 writ petitioners, out of whom, one has chosen not to prefer any appeal.

20. In the aforesaid backdrop of factual events, when the award has not been challenged at any point of time, determination of compensation afresh, in the considered opinion of this Court, does not arise.

21. In view of the above discussion, we are of the considered opinion that no interference is called for with regard to the order passed by the learned Single Judge. However, before parting of the records, we observe that if the





amount deposited is fetching any interest, compensation amount shall be paid alongwith such accrued interest.

22. With the aforesaid modification of the order of the learned Single Judge, writ appeal stands dismissed. No costs.

Sd/-

(Arup Kumar Goswami)
Chief Justice

Sd/-

(Sanjay K. Agrawal)
Judge

Anu

