

**(2018) 07 CHH CK 0247**

**Chhattisgarh High Court**

**Case No:** Writ Petition (C) No. 778 Of 2014

Sukritlal Sahu And Ors

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

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**Date of Decision:** July 20, 2018

**Acts Referred:**

- Land Acquisition Act, 1894 - Section 5A, 16(1)

**Hon'ble Judges:** Sanjay K. Agrawal, J

**Bench:** Single Bench

**Advocate:** Sushobhit Singh, R. N. Pusty, K. R. Nair

**Final Decision:** Dismissed

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### **Judgement**

Sanjay K. Agrawal, J

1. This writ petition is directed questioning the award dated 16.01.2012 (Annexure - P/1) passed by the Sub-Divisional Officer-cum-Land Acquisition

Officer, Janjgir Champa on the ground that the award passed is in violation of Section 5A of the Land Acquisition Act, 1894 (for brevity, 'Act of

1894') and, therefore, the award is unsustainable and bad in law and is liable to be set aside.

2. Learned counsel for the petitioners would submit that though the petitioners have submitted their objection under Section 5A of the Act of 1894 but

that was not considered and the impugned award came to be passed and even possession has been taken that vitiates the award.

3. Learned State counsel would submit that out of the total land owned by the petitioners, only 0.25 acres of land has been taken and objection filed by

the petitioners have been considered and decided and as such after the award was passed on 16.01.2012, possession has already been taken long

back and thus, the award has become final and the writ petition has been filed on 21.04.2014 which suffers from delay and laches.

4. Mr. Nair, learned counsel appearing for respondents No. 2 and 3 would also support the order impugned.

5. I have heard learned counsel for the parties, considered their rival submissions made herein above and went through the records with utmost circumspection.

6. It is not in dispute that the award was passed on 16.01.2012 and thereafter, possession of the subject land has been taken and the subject land has

been vested with the State free from encumbrance under Section 16(1) of the Act of 1894 and thereafter, the writ petition has been filed on

21.04.2014. The question is whether the writ petition would be maintainable and whether it suffers from delay and laches ?

7. The Supreme Court in the case of State of Rajasthan v. D. R. Laxmi (1996) 6 SCC 445, following the decision in Municipal Corpn. Of Greater

Bombay<sup>2</sup>, has held in para 9 as under :-

9.... When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material

factor to be taken into consideration before exercising the power under Article 226. The fact that no third-party rights were created in the case, is

hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned Single

Judge dismissing the writ petition on the ground of laches.

8. Similarly, the Supreme Court in the case of Municipal Council, Ahmednagar v. Shah Hyder Beig (2000) 2 SCC 48, wherein the Supreme Court,

following the decision in C. Padma v. Dy. Secy. to the Govt. of T.N. (1997) 2 SCC 627, held :

17. In any event, after the award is passed no writ petition can be filed challenging the acquisition notice or against any proceeding thereunder. This

has been the consistent view taken by this Court and in one of the recent cases ( C. Padma v. Dy. Secy. to the Govt. of T.N).....

9. Thereafter, the Supreme Court in the Case of Swaika Properties (P) Ltd. And Another v. State of Rajasthan and Others (2008) 4 SCC 695,

following the decisions in D. R. Laxmi (supra) and Municipal Council, Ahmednagar (supra), has held in Para- 19 as under :-

19. In the present case also, the writ petition having been filed after taking over the possession and the award having become final, the same

deserves to be dismissed on the ground of delay and laches. Accordingly, the orders of the learned Single Judge and that of the Division Bench are

affirmed to the extent of dismissal of the writ petition and the special appeal without going into the merits thereof. This appeal also deserves to be

dismissed without going into the merits of the case and is dismissed as such. No costs.

10. Reverting to the facts of the present case, admittedly after passing of the impugned award in question, possession of the subject land has already

been taken from the petitioner and the land has vested with the State Government under Section 16(1) of the Act of 1894 free from encumbrances

and thus, the principle of law enunciated by the Supreme Court in the above stated judgments squarely applies to the facts of the present case

warranting dismissal of the writ petition which I direct, leaving the parties to bear their own cost(s).