

The learned counsel appearing for the parties would be at liberty to submit their written submissions within 10 days from today.

SLP(C)Nos.31047-31061/2009&SLP(C)Nos.34195-34209/2009

However, during the course of hearing it has been seriously contended by the State of M. P. that actual physical possession of the land ad-measuring 284.03 hect. falling in five villages viz. Dharadi, Kothmir, Narsinghpura, Nayapura and Guwadi has not been taken by the State, inspite of resorting to acquisition proceedings to a certain extent. This

fact has been seriously refuted by respondent No.1 i.e. Narmada Bachao Andolan and it has been contended

that actual physical possession has been taken, which is projected in various documents including

the affidavits sworn by the oustees/cultivators of the said land. They have also placed reliance on the entries in the revenue records which reflected the

-3-

position that the Executive Engineer of the Company was in possession of the said land measuring 284.03 hect. also. In the light of serious contentions raised by both the parties it is in fact not possible for us to come to a definite conclusion as to who is

in actual possession of the land today. In view of this, we deem it fit and proper to request the learned District Judge, Indore to make a spot inspection and submit his report with regard to the land ad-measuring 284.03 hect. situated in the aforesaid five villages. Before going to the spot, he will inform the parties concerned so that they may, if so desire, remain present at the time of inspection and render proper assistance in identifying the land in question. We clarify that we

are not concerned with the total land of those

villages, rather the controversy is limited to
284.03 hect., which the State does not want to
acquire. It may also be mentioned in the report as

to whether there is any crop standing on the said
land or part of it and if it is so, who had sown the
crop. If the crop has recently been removed or land

has been tilled, who has done so. Let the report be
submitted by the District Judge within a period of
15 days from the date of communication of this order.

-4-

The Registry of this Court is directed to
inform the Registrar of the High Court of M.P.,
Indore Bench at the earliest by FAX message, so as to
enable him to take appropriate action.

There is also a serious dispute about whether
the land comprising 284.03 hect. in the aforesaid
five villages would ultimately be submerged or not
(may be for temporary period or permanently). Mr.
Ravi Shankar Prasad, the learned senior counsel
appearing apart from giving other suggestions also
suggested that Central Water Commission, which is an
expert body, should be directed to visit the spot and
then submit its report to find out whether the land
of the oustees is going to be sub-merged or not.

We find force in the arguments advanced by Mr. Ravi
Shankar Prasad. Even though the learned counsel for
the respondent No.1, Narmada Bachao Andolan, has
vehemently opposed this prayer on the strength that
in view of the various admissions made by State
Government, this exercise is not required at this
stage. However, it is required to be determined as to
whether the land - subject matter of dispute ad-
measuring 284.03 hect. in the aforesaid five villages
and which the State is not willing to acquire, would
ultimately come under temporary or permanent

submergence.

-5-

Thus, we request the Central Water Commission, New Delhi to appoint an appropriate Committee in this regard and submit its report within a period of 15 days from the date of communication of this order.

The Registry of this Court is directed to transmit this order to the Chairman, Central Water Commission, Seva Bhavan, R. K. Puram, New Delhi-66 to implement the order.

It is clarified that whatever expenses are incurred in the execution of this order, the same shall be borne by the State of M.P.

(Neetu Sachdeva)
Sr. P. A.

(Sneh Bala Mehra)
Court Master