

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.478 of 2014

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1. Rabindra Thakur Son of Late Rajeshwar Thakur Resident of Village- Saidpur, P.O.- Lagunia, P.S. And Block- Patori, Dist- Samastipur
 2. Surendra Thakur @ Dhiraj Kumar Son of Late Rajeshwar Thakur Resident Of Village- Saidpur, P.O.- Lagunia, P.S. And Block- Patori, Dist- Samastipur

.... Petitioner/s

Versus

1. The District Magistrate, Samastipur
2. The Land Acquisition Officer, Samastipur
3. Ramanand Jha Son of Ram Sharan Jha Resident of Village- Saidpur, P.O.- Lagunia, P.S. And Block- Patori, Dist- Samastipur
4. Mantun Jha Son of Ram Sharan Jha Resident of Village- Saidpur, P.O.- Lagunia, P.S. And Block- Patori, Dist- Samastipur
5. Shambhu Jha Son of Ram Sharan Jha Resident of Village- Saidpur, P.O.- Lagunia, P.S. And Block- Patori, Dist- Samastipur
6. Vijay Jha Son of Ram Sharan Jha Resident of Village- Saidpur, P.O.- Lagunia, P.S. And Block- Patori, Dist- Samastipur
7. Sanjay Jha Son of Sitaram Jha Resident of Village- Saidpur, P.O.- Lagunia, P.S. And Block- Patori, Dist- Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjai Kumar Singh, Adv.
For the Respondent/s : Mr. Anshuman Singh, Adv.
For the private respondent No.4 : Mr. Vijay Anand, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 28-07-2015 Heard Mr. Dhananjay Kumar Singh, learned counsel for the petitioners, Mr. Anshuman Singh, G.P.24 for the State and Mr. Vijay Anand for the respondent No.4.

Though notices had been issued to all the respondents but except respondent Nos. 4 and 7, the others have not appeared and respondent No.7 has relinquished his claims as against the dispute raised in the petition.

The main contest is in between the petitioners and the private respondent No.4.

By way of this writ petition, the petitioners have questioned the notice bearing Nos.10232 and 10233 as contained in Annexure-5 series whereby while issuing a notice under Section 12(2) of the Land Acquisition act, 1894 (hereinafter referred to as 'the Act'), the respondent-Collector has also included the name of the private respondents. It is the inclusion of the name of these private respondents in the matter of payment of compensation and in the notice issued under Section 12(2) of 'the Act' which has been put to question in this application. Both the contesting parties are claiming settlement by the Ex-Jamindar. Whereas the petitioners on the basis of the khatiyani entry and the documents in his possession has succeeded before the Settlement Officer in a suit instituted under Section 106 of the Bihar Tenancy Act objecting to the entry of the name of the private respondents in the revenue records and which suit bearing No.855 of 2004 stands decreed in his favour vide judgment and decree passed on 5.6.2008 and even the challenge by the private respondent to the same has not found success, on the other hand, private respondents also claims settlement by the Ex-Jamindar on the basis of some revenue receipts but to establish his right he has taken recourse to

a suit bearing Title Suit No.334 of 2014.

The matter relates to acquisition of land bearing Khata No.113 Khesra No.224 Thana No. 168 of which 7 decimals and 3 decimals respectively were acquired in the land acquisition proceedings. The acquisition is not denied. In fact the award is also prepared and it is only at the stage of settlement of the award that the private respondent also claimed a portion thereof when their names were included in the notice issued under Section 12(2) of 'the Act' giving rise to the present proceedings. While the matter is pending consideration before this Court, the District Land Acquisition Officer, Samastipur has kept the issue of payment of compensation in abeyance until the outcome of the Title Suit No. 334 of 2014 filed by the private respondent No.4.

The records of the proceedings further manifest that an application has also been filed by the petitioners by invoking the provisions of Section 30 of 'the Act' seeking an adjudication on apportionment consequent upon the dispute so raised by the private respondents. It is admitted by Mr. Singh appearing on behalf of the petitioners that the said application filed under Section 30 of 'the Act' remains pending for disposal before the Collector, Samastipur.

Since the matter appertains to the issue of title and except



for the rent receipt and the decree passed by the prescribed authority under Section 106 of the Bihar Tenancy Act confirming the possession of the petitioner on the land in question, there is no other document on record in favour of either of the two parties, any adjudication by this Court at this stage would be prejudging the issue raised in the title suit as also the application so filed by the petitioners under Section 30 of the Land Acquisition Act.

In the circumstances so discussed hereinabove, it would be but appropriate to direct the Collector, Samastipur to refer the matter relating to apportionment before the competent forum and since admittedly a title suit is also pending in respect of the land in question, it would be prudent to refer the matter to the Court in seisin of the title suit, who would be in a better position to adjudicate on the issue so raised under Section 30 of 'the Act', as well.

For the reasons aforementioned this Court without expressing any opinion on the relative merits of the case would direct the Collector, Samastipur to forthwith refer the dispute raised by the writ petitioners under Section 30 of 'the Act' before the trial court in seisin of Title Suit No. 334 of 2014 and since the matter relates to payment of compensation and there is a sense of urgency in the matter hence this Court would expect the trial court

to dispose of the title suit itself expeditiously by conducting day to day hearing and preferably within 6 months from the date of receipt of the reference by the Collector which should be made within two weeks of the date of receipt/production of a copy of this order.

Since this Court has not expressed any opinion as to the merits of the case hence the parties contesting would be at liberty to raise all issues as raised herein before the trial court. The limitation if any in preferring the application under Section 30 of 'the Act' would not preclude the Collector, Samastipur to do the needful reference in terms of the order passed herein.

This writ petition is disposed of.

(Jyoti Saran, J)

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