

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19642 of 2013

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Yogendra Mahto son o Late Natthu Mahto, resident of village Araria Sangram, P.O. Tulapatganj, P.S. & Anchal Jhanjharpur, District Madhubani (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna
2. The District Magistrate, Madhubani
3. The District Land Acquisition Officer, Madhubani
4. The Sub-Divisional Magistrate, Kahalgaon
5. The Chairman, National Highway Authority of India (NHAI), New Delhi
6. The Project Officer, National Highway Authority of India (NHAI), Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi, Advocate
Mr. Sumit Kumar Jha, Advocate

For the Respondent Nos. 1 to 4 : Mr. Krishna Chandra, AC to AG

For the Respondent No.5 & 6 : Mr. S.N. Pathak, Sr. SCCG
Mr. Sunil Kumar II, Advocate
Mr. Abhay Kumar Kashyap, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 15-12-2015

Heard the parties.

2. Indisputably, the petitioner had approached this Court earlier in CWJC No.11729 of 2011 raising a grievance that he has not been paid adequate amount of compensation of entire land belonging to him, which has been acquired under the provisions of the National Highways Act, 1956 for NH 57. The aforesaid writ petition was finally disposed of by an order dated 29.08.2011 (Annexure-6) by a Bench of this Court with a direction to the respondent District Land Acquisition Officer, Madhubani to dispose of the claims raised on behalf of the petitioner in accordance with law.

3. Learned counsel appearing on behalf of the petitioner submits that in the light of the aforesaid order dated



29.08.2011, though the order dated 27.05.2013 (Annexure-9) has been passed by the respondent District Land Acquisition Officer, Madhubani, but while passing the aforesaid order not only the claim of the petitioner for payment of compensation amount was rejected, but a direction has been issued for recovery of certain amount, which had already been paid to the petitioner. It is contended that before passing such a punitive order, opportunity of personal hearing was required to be given to the petitioner, but that has not been done in the present case. According to the learned counsel, the impugned order dated 27.05.2013 (Annexure-9) is liable to be set aside on that ground alone.

4. Learned AC to learned Advocate General, appearing on behalf of the respondent nos. 1 to 4, has contested the claim raised on behalf of the petitioner by referring to averments made in the counter affidavit filed on behalf of the respondent nos. 2 and 3. However, he fairly conceded that there is no averment in the aforesaid counter affidavit that personal hearing was given to the petitioner before passing the impugned order dated 27.05.2013 (Annexure-9). Learned counsel appearing on behalf of the respondent nos. 5 and 6 has not filed any counter affidavit, though the matter is pending before this Court since 25.09.2013. Therefore, he is not in a position to throw any light on this issue.

5. Having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that the matter requires re-consideration and a fresh decision by the respondent District Land Acquisition Officer, Madhubani, as apparently before passing the impugned order, opportunity of personal hearing was not given to the petitioner and there has been

violation of the principles of natural justice..

6. For the reasons recorded above, the impugned order dated 27.05.2013 passed by the respondent District Land Acquisition Officer, Madhubani (Annexure-9), so far it relates to the petitioner, is hereby set aside and quashed, and the matter is remitted back to the respondent District Land Acquisition Officer, Madhubani with a direction to decide the entire issues raised on behalf of the petitioner as also the issue regarding refund of the compensation amount by the petitioner afresh, after giving an opportunity of hearing to the petitioner and all other concerned persons.

7. In order to expedite the matter, the petitioner is hereby directed to appear before the respondent District Land Acquisition Officer, Madhubani (respondent no.3) within a period of six weeks from today with a certified copy of the present order, whereafter the matter shall be decided afresh, as directed above. However, if the petitioner fails to appear within the aforesaid period of time, it shall be construed that the present writ petition stood dismissed on account of non-compliance of the Court's order.

8. The writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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