

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2299 of 2015

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1. Prabhat Kumar @ Ritesh Kumar
2. Abhay Kumar Singh @ Mukul Kumar Singh Both are sons of late Ram Ekbal Singh @ Late Ravi Ranjan Singh Both are resident of village - Dumari, P.S. - Chenari, District - Rohtas at present residing at Village - Bamhour, P.S. - Shivsagar, District - Rohtas.

.... Petitioners

Versus

1. The State of Bihar through Principal Secretary, Deptt. of Revenue and Land Reforms, Bihar, Patna.
2. The District Land Acquisition Officer, Rohtas at Sasaram- cum- Competent Authority.
3. The Circle Officer, Anchal Shivsagar, District - Rohtas.
4. Urmila Devi wife of Sheo Pujan Singh resident of Village - Nad, P.S. - Sheosagar, District - Rohtas.
5. Sumitra Devi wife of Ram Keshwar Singh resident of Village and P.O. - Khurmabad, P.S. - Chenari, District - Rohtas.
6. Madhuri Devi wife of Rama Shankar Singh resident of Village and P.O. Katra, P.S. - Mohania, District - Kaimur.
7. Usha Devi wife of Dilip Singh resident of Village - Bamhaur, PO and PS Sheosagar, District - Rohtas.

.... Respondent/s

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Appearance :

For the Petitioners : Mr. Subash Kumar, Advocate.
For the State : Mr. Ram Balak Mahto, AG
For the NHAI : Mr. S.N.Pathak, Advocate.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 05-02-2015

Heard learned counsel for the petitioners and the State.

With the consent of the parties as also keeping in view
the order this Court proposes to pass the writ petition is being
disposed of without notice to the private respondents.

The land appertaining to khata no. 159, khesra no. 109
within Mouza- Bamhaur standing in the name of one late Makhtula



Devi became the subject matter of acquisition for the purpose of construction of six lane road by the National Highway Authority of India (for short 'the NHAI'). Indisputably the subject land has been acquired and award was prepared vide award no. 31 in the name of Late Makhtula Devi. An application was filed by the daughters of sister of Makhtula Devi (since deceased) for amendment in the award and payment of the compensation amount. The petitioners claiming themselves to be the members of the family of Late Makhtula Devi filed an application (Annexure-5) before the District Land Acquisition Officer-cum –Competent Authority for substituting their names in place of Late Makhtula Devi on the strength of a Will said to have been executed by deceased Makhtula Devi before her death for which a Probate proceeding being Probate case no. 20 of 2014 was filed by them in the District Court of Rohtas at Sasaram.

The grievance of the petitioners is that from perusal of the impugned order dated 11.09.2014 passed by the respondent-District Land Acquisition Officer in L.A. case no. 01 of 2011-12/NHAI, it does not appear that the said objection was considered and decided. The District Land Acquisition Officer only considered the claim of the three daughters of the sister of late Makhtula Devi and allowed the same and directed payment of 1/3 of the compensation amount to each of them. Learned counsel has submitted



that any person having interest in the subject land is required to be heard before any such decision is taken. The order is quite silent on the application (Annexure-5) which was filed on the earlier date fixed thereat. It has, therefore, been prayed that the District Land Acquisition Officer be directed to consider the objection which was filed in the shape of substitution of late Makhtula Devi and take a fresh decision after hearing the parties. The counsel for the State has only pointed that in the petition (Annexure-5) the petitioners have prayed for substitution of late Makhtula Devi.

Be that as it may, considering the facts and circumstances emerging from the records and the principle of law that govern such disposal of the claim for payment of the compensation amount, this Court is satisfied that the writ application be disposed of by the following order:-

Let the petitioners file a fresh copy of Annexure-5 along with a copy of this order before the competent Authority-cum-Land Acquisition Officer (respondent no.2) within a period of three weeks whereafter the said respondent shall consider the same and if need be after affording an opportunity of hearing to all the parties concerned pass an appropriate order thereon in accordance with law. This Court would only clarify that in doing so, the District Land Acquisition Officer-cum-competent Authority (respondent no.2) shall not in any

way precluded by the order which the said respondent passed on 11.9.2014 (Annexure-6). No sooner the application is filed by the writ petitioners before the respondent no.2 the payment of the compensation amount, if not already paid, shall remain in abeyance until passing of the order by the said Authority.

(Kishore Kumar Mandal, J)

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