

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11618 of 2013**

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Kamila Khatoon, Wife Mohammad Rahman, Daughter Of Late Jabbar Khan, Resident Of Village - Vanaspati, P.O. Nandlalpur, P.S. Kahalgaon, District - Bhagalpur

.... .... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Patna  
2. The Director, Land Acquisition Directorate, Secretariat, Patna  
3. The Collector, Bhagalpur  
4. The District Land Acquisition Officer, Bhagalpur  
5. The Circle Officer, Pirpaithi, District Bhagalpur

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rajendra Kumar Jain, Adv.

For the Respondent/s : Mr. Krishna Chandra, AC to AG

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA**  
**ORAL ORDER**

7      30-11-2015

Heard the parties.

The grievance of the petitioner is that 1 acre and 77 decimals of lands of different plots all situate at Mauza-Harinkol, Anchal-Pirpainti, District-Bhagalpur belonging to the petitioner and her other co-sharers have been acquired by the respondent State of Bihar for the purposes of Pirpainti Thermal Power Project and even notice dated 11.06.2014 under Section 12(2) of The Land Acquisition Act, 1894 (in short 'Act, 1894') has been issued informing them to appear on the date fixed for receiving 80% award amount in advance to the tune of Rs.1,00,02,300/-, but despite the aforesaid notice and despite appearance of the petitioner she has not been paid her admissible share of award amount.

In support of the aforesaid assertions notice dated 11.06.2014 issued under Section 12(2) of the Act, 1894 has been brought on record as Annexure-5 to the reply affidavit filed on behalf of the petitioner today itself wherein the name of the petitioner, besides her other co-sharers, is mentioned and all were

directed to appear on 21.06.2014 for receiving the aforesaid award amount. It is submitted by the learned counsel that, in response to the aforesaid notice, petitioner appeared before the respondent District Land Acquisition Officer, Bhagalpur, but till date payment has not been made.

The learned AC to AG appearing on behalf of the respondents, on the other hand, submits that, in fact, two awards were prepared and two separate notices have been issued to the petitioner and other co-sharers under Section 12(2) of the Act, 1894, but the payment has been withheld on the ground that an appeal has been filed by one of the co-sharers, which is still pending in the Civil Court.

After having heard the parties and on examination of the materials available on the record, this Court finds that there is no dispute that a land acquisition proceeding was initiated by the Collector under the Act. There is further no dispute that two separate notices under Section 12(2) of the Act, 1894 were issued to the petitioner and her other co-sharers. Further, there is no dispute that despite the aforesaid notices award amount has not been paid to any of the co-sharers.

In the considered opinion of this Court even if some appeal is pending before some appellate forum with respect to certain area of the lands in question, which were subject matter of a land acquisition proceeding, and if there is no stay order passed by the appellate court, then the payment of award amount cannot be withheld by the Collector under the Act. After preparation of award, if claimants/awardees appear, then the award amount is required to be paid to them in terms of award so prepared. However, if there is some dispute regarding some part of the award amount then reasonable conditions can be imposed by the Collector under the Act before releasing the award amount.

So far the present case is concerned, there is one difficulty that other co-sharers, in whose favour also the award has been prepared, have not been impleaded as party respondents. In absence of the aforesaid co-sharers, all the disputed questions of facts cannot be decided in the present proceeding.

In above view of the matter, the petitioner is directed to appear before the respondent District Land Acquisition Officer, Bhagalpur with a comprehensive representation in support of her claims, which have been raised in the present proceeding. If the petitioner appears before the respondent District Land Acquisition Officer, Bhagalpur with all supporting documents as also with a certified copy of the present order within a period of one month from today, then the respondent District Land Acquisition Officer, Bhagalpur shall issue notice to all the land holders/co-sharers to whom notices under Section 12(2) of the Act, 1894 were issued and after giving them an opportunity of hearing the admissible award amount shall be paid to the petitioner, besides others, within a period of three months, or he shall pass an appropriate final order with respect to the claims raised on behalf of the petitioner.

It is further clarified that simply on the ground of pendency of some appeal with respect to certain area of lands, the respondent District Land Acquisition Officer, Bhagalpur shall not deny the valid claim of the petitioner for receiving the admissible award amount.

With the aforesaid observations and directions, the writ petition stands finally disposed of.

Arvind/-

**(Birendra Prasad Verma, J)**

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