

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14585 of 2011

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Chandrika Rai S/O Late Gopal Rai, R/O Vill.- Gangajal Tola, P.S.- Sonapur, Distt.- Saran

.... Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, Distt.- Vaishali
2. The Divisional Railway Manager, Sonapur Rail Division, Sonapur, Distt.- Saran
3. The Chief Administrative Officer (Construction), East Central Railway, Mahendru Ghat, Patna
4. The Deputy Chief Engineer (Construction), Ganga Rail Cum-Road Setu, East Central Railway, Digha, Patna
5. The District Magistrate, Saran, Charpa
6. The District Land Acquisition Officer, Saran, Chapra

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Singh, Adv.

For the Respondent No.1 to 4: Mrs. Binita Singh, Adv.

For the Respondent No.5 & 6 : Mr. Shashi Shekhar Pd. Sinha, AC to GA-13

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 21-07-2016

Heard the parties.

The petitioner has filed the present writ petition seeking a direction to the respondent-authorities for payment of adequate compensation in lieu of the land bearing khata no. 891, plot no. 663, area 55 decimals (in short land in question) acquired for construction of Rail-cum- Road bridge over river Ganga near Digha Ghat, Patna.

The learned counsel appearing on behalf of the petitioner submits that though the land in question belongs to the petitioner and for some other parcels of the lands, award in his favour was prepared by the Collector under the Land Acquisition Act, 1894 (in short Act), but his grievance is that for this parcel of land award has wrongly been prepared in the name of one Yogendra Prasad Rai treating him to



be the owner of the land in question. Therefore, according to him, appropriate direction may be issued to the concerned respondents for payment of adequate compensation to the petitioner for the land in question. The notice issued to the petitioner under Section 12(2) of the Act with respect to other parcels of lands has been brought on the record as Annexure-2 to the writ petition.

In the present matter, a counter-affidavit has been filed on behalf of the respondent no. 5 and 6, wherein entire claims raised on behalf of the petitioner with respect to the land in question has been disputed. It has been asserted in that counter-affidavit that the petitioner filed his objection raising claim over the land in question, but that was rejected by order dated 12.02.2005 (Annexure-A), as the petitioner failed to produce any document in support of his claim over the land in question. By the aforesaid order, it was held that the land in question belongs to one Yogendra Prasad Rai. In paragraph-10 of the aforesaid counter-affidavit it has further been asserted that on the basis of possession over the land in question and the documents produced, two separate awards have been prepared in the name of one Yogendra Prasad Rai and Suryadev Rai and the amount of compensation has already been paid to them in April, 2005 itself.

Though copy of the aforesaid counter-affidavit was served upon the learned counsel appearing on behalf of the petitioner on 05.04.2012, but till date no rejoinder affidavit has been filed on behalf of the petitioner controverting the averments made in the aforesaid counter-affidavit.

In above view of the matter, the present writ petition has to fail on two counts; firstly, Yogendra Prasad Rai and Suryadev Rai, in whose favour award has been prepared with respect to the land in question, claimed by the petitioner, have not been impleaded as party

respondents in the present writ petition. Hence, on the ground of non-joinder of all the necessary parties, the writ petition has to fail. Secondly, if the award was prepared in favour of the aforesaid Yogendra Prasad Rai and Suryadev Rai and amount of compensation was paid to them in April, 2005 itself, then the petitioner ought to have filed a petition in terms of Section 18 read with section 30 of the Act, 1894 seeking reference of the matter to the civil court, but admittedly, that has not been done in the present case. The period prescribed under Section 18 of the Act, 1894 for reference to the civil court has already expired. Therefore, no direction can be issued even for such reference in view of the law laid down by the Hon'ble Apex Court in the case of **Bhagwan Das vs. State of U.P.** [*AIR 2010 SC 1532 = (2010)3 SCC 545*] as also the principles laid down about the limitation in the case of **Officer on Special Duty (Land Acquisition) vs. Shah Manilal Chandulal** [(1996)9 SCC 414= 1996 AIR SCW 941].

For the reasons recorded above, the present writ petition is dismissed. However, there shall be no order as to costs.

(Birendra Prasad Verma, J)

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