

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4064 of 2014

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Aditya Narayan Singh, S/O Late Jai Mangal Singh, Resident Of Village -
Narpat Nagar, P.S. Sakri, District - Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Road Construction Department, (National Highway) Govt. Of Bihar, Patna
2. The Managing Director National Highway Authority of India, New Delhi
3. The Collector Madhubani Cum Chairman Five Men Committee N.H. Claim Settlement, Madhubani
4. The Additional Collector Cum Arbitrator National Highway Authority Of India, Madhubani
5. The District Land Acquisition Officer, Madhubani
6. The Project Director, National Highway Authority of India, Darbhanga

.... Respondent/s

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With

Civil Writ Jurisdiction Case No.5157 of 2014

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1. Haribansh Narayan Singh, S/O Late Priyabrat Narayan Singh
 2. Rajesh Roshan, S/O Late Raghubansh Narayan Singh
- Both Resident Of Village Narpat Nagar, P.S- Sakri, District- Madhubani.

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Road Construction Department, (National Highway), Govt. Of Bihar, Patna.
2. The Managing Director National Highway Authority Of India, New Delhi.
3. The Collector, Madhubani Cum Chairman Five Men Committee, N.H. Claim Settlement, Madhubani
4. The Additional Collector Cum Arbitrator National Highway Authority Of India, Madhubani.
5. The District Land Acquisition Officer, Madhubani.
6. The Project Director, National Highway Authority of India, Darbhanga

.... Respondent/s

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With

Civil Writ Jurisdiction Case No.5514 of 2014

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Abdul Malik, S/O Late Abdul Ajim, Resident Of Village Mokrapur Tole
Soripatti, P.S. Sakri, District Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Road Construction Department, (National Highway), Govt. Of Bihar, Patna

2. The Managing Director National Highway Authority of India, New Delhi
3. The Collector Madhubani Cum Chairman Five Men Committee N.H. Claim Settlement, Madhubani
4. The Additional Collector Cum Arbitrator National Highway Authority Of India, Madhubani
5. The District Land Acquisition Officer, Madhubani
6. The Project Director, National Highway Authority of India, Darbhanga

.... Respondent/s

Appearance :

(In CWJC No.4064 of 2014)

For the Petitioner/s : Mr. Amarendra Narayan, Adv.
 For the Respondent nos.1&3to5 : Mr. Ranjan Kumar, AC to AAG-IV
 For the Respondent nos.2&6 : Mr. Sunil Kumar No.-II, Adv.
 Mr.Gyan Prakash, Adv.
 Mr.Sharwan Kumar, Adv.

(In CWJC No.5157 of 2014)

For the Petitioner/s : Mr. Amarendra Narayan, Adv.
 For the Respondent nos.1&3to5 : Mr. Niranjan Kumar, AC to GP-27
 For the Respondent nos.2&6 : Mr. Sunil Kumar No.-II, Adv.
 Mr.Gyan Prakash, Adv.
 Mr.Sharwan Kumar, Adv.

(In CWJC No.5514 of 2014)

For the Petitioner/s : Mr. Amarendra Narayan, Adv.
 For the Respondent nos.1&3to5 : Mr. Rajesh Kumar, AC to AAG-III
 For the Respondent nos.2&6 : Mr. Sunil Kumar No.-II, Adv.
 Mr.Gyan Prakash, Adv.
 Mr.Sharwan Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

3 21-06-2016

In all these three writ petitions, the issues of facts and law involved are almost common and identical; therefore, on the request of the learned counsel appearing on behalf of the parties, all these three writ petitions have been heard together and are being disposed of by this common judgment.

Indisputably, the petitioners of all these three writ petitions were the owners of the lands in question, fully detailed in paragraph no.4 of each of the writ petitions, which have been acquired under the provisions of The National Highways Act, 1956 (in short 'Act, 1956') for the purposes of widening of National Highway No.57.

The matters at issue in all these three writ petitions are the quantum of compensation payable to these petitioners for the acquisition of their respective lands under the provisions of the Act, 1956.

It is not in dispute that the determination of amount of compensation payable to these petitioners with respect to the lands in question, fully detailed in paragraph 4 of each of the writ petitions, was made by the competent authority as defined under Section 3(a) of the Act, 1956. The petitioners, being not satisfied with the determination made by the competent authority in terms of Section 3G(1) of the Act, 1956, had moved this Court by filing their separate writ petitions seeking a direction to the respondents for payment of higher amount of compensation after taking into consideration the pleas raised on their behalf in their writ petitions. CWJC No.12281 of 2010 (Haribansh Narayan Singh & Anr. Vs. the State of Bihar & Ors.), CWJC No.12317 of 2010 (Aditya Narain Singh VS. the State of Bihar & Ors.) and CWJC No.12339 of 2010 (Abdul Malik Vs. the State of Bihar & Ors.), filed by the petitioners, were heard together by a Bench of this Court and by a common order dated 09.09.2010, all the aforesaid three writ petitions were disposed of with a direction to the petitioners to appear before the Arbitrator, who, in turn, was directed to consider their claims in terms of Section 3G(5) of the Act, 1956. The aforesaid order dated 09.09.2010 passed by this Court has been brought on the record as Annexure-7 in CWJC No.4064 of 2014.

In the light of the aforesaid order dated 09.09.2010 passed by this Court, the petitioners appeared before the Arbitrator-cum-Additional Collector, Madhubani and made a prayer for determination of their claims for payment of higher

amount of compensation and other incidental reliefs in terms of Section 3G(5) of the Act, 1956.

Unfortunately, by the impugned identical orders dated 02.04.2013 passed separately in Case No.105 of 2010-11, Case No.106 of 2010-11 and Case No.107 of 2010-11, the Arbitrator-cum-Additional Collector, Madhubani has refused to decide the claims of the petitioners in terms of Section 3G(5) of the Act, 1956 on the ground that similar exercise has been undertaken by a Five Men Committee constituted by the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna vide letter 10.10.2009. The aforesaid letter dated 10.10.2009 has been brought on record as Annexure-A to the counter affidavit filed on behalf of the respondent nos.3 to 5 in CWJC No.4064 of 2014.

From the plain reading of the aforesaid letter dated 10.10.2009, it is apparent that a Five Men Committee has been constituted for each district for the purposes of determination of the compensation and for looking into other aspect of the matter for acquisition of lands for NHAI by the competent authority essentially under Section 3G(1) and (2) of the Act, 1956. Once such determination is made by the competent authority, then the aforesaid Five Men Committee does not have any role to play, while statutory powers are exercised by the Arbitrator in terms of Section 3G(5) of the Act, 1956. Evidently, the Arbitrator-cum-Additional Collector, Madhubani while passing the impugned orders dated 02.04.2013 has committed an error of law in not deciding the claims of the petitioners in exercise of his powers under Section 3G(5) of the Act, 1956. In fact, his impugned action in not deciding the claims of the petitioners is contrary to the



order/direction dated 09.09.2010 issued by this Court earlier in CWJC No.12281 of 2010 and its analogous cases, which has attained its finality. Furthermore, since the Statute has itself prescribed and has vested such powers in the Arbitrator for deciding the claims of the parties under Section 3G(5) of the Act, 1956, the Arbitrator could not have abrogated his aforesaid powers in favour of the Five Men Committee of the district, so constituted by the Principal Secretary of the Department of Revenue and Land Reforms, Government of Bihar, Patna. The aforesaid letter dated 10.10.2009 issued by the Principal Secretary of the Department cannot be treated as an amendment of the provisions of Section 3G(5) of the Act, 1956.

In above view of the matter, this Court is of the considered opinion that the entire matter requires re-consideration and fresh decision by the Arbitrator-cum-Additional Collector, Madhubani strictly in accordance with the scheme and mandate of Section 3G(5) of the Act, 1956.

For the reasons recorded above, the orders dated 02.04.2013 passed separately in Case No.105 of 2010-11, Case No.106 of 2010-11 and Case No.107 of 2010-11, which all have been impugned in this batch of the writ petitions, are hereby set aside and quashed, and all these matters are remitted back to the respondent Arbitrator-cum-Additional Collector, Madhubani with a direction to decide the claims of the petitioners for higher amount of compensation strictly in accordance with law, after taking into consideration all the materials, which may be available on the record or are produced by the parties.

In order to expedite the matter, the petitioners of all these three writ petitions are hereby directed to appear before the

respondent Arbitrator-cum-Additional Collector, Madhubani within a period of one month from today with a certified copy of the present order, whereafter he shall proceed to decide the matter afresh in accordance with law, and all endeavours shall be made to dispose of their cases at an early date preferably within a period of three months from the date of appearance of the petitioners in the manner indicated above.

It is clarified that while passing the fresh order in exercise of his powers under Section 3G(5) of the Act, 1956, the Arbitrator-cum-Additional Collector, Madhubani shall not be influenced or prejudiced by any finding recorded by the Five Men Committee of the district, so constituted by the letter dated 10.10.2009 of the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.

In the result, all these three writ petitions stand allowed to the extent indicated, but with the observations and directions made above. No costs.

(Birendra Prasad Verma, J)

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