

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11124 of 2012

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Dharmnath Singh Son of Bhuali Singh, Resident of Village & P.S.-
Inderpuri, District - Rohtas, At Present Resident of Village - Sasna, P.S.-
Navinagar, District - Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Aurangabad
3. The Additional Collector, Aurangabad
4. The District Land Acquisition Officer, Aurangabad
5. Sudeshi Singh Son of Late Khaderan Singh Yadav, Resident of Village
& P.S. - Inderpuri, District - Rohtas
6. Soharai Singh Son Of Late Khaderan Singh Yadav, Resident of Village
& P.S. - Inderpuri, District - Rohtas
7. Moshafir Singh Son of Late Khaderan Singh Yadav Resident of Village
& P.S. - Inderpuri, District - Rohtas
8. Ram Sawarath Singh Son of Late Khaderan Singh Yadav, Resident of
Village & P.S. - Inderpuri, District - Rohtas
9. Suraj Singh Son Of Late Bhikhari Singh Yadav Resident Of Village &
P.S. - Inderpuri, District - Rohtas
10. Ramdeo Singh @ Rajdeo Singh Son Of Late Bhikahri Singh Yadav
Resident Of Village & P.S. - Inderpuri, District - Rohtas
11. Rajbali Singh Son Of Late Bhikhari Singh Yadav Resident Of Village &
P.S. - Inderpuri, District - Rohtas
12. Narendra Singh Son Of Late Bhikhari Singh Yadav Resident Of Village
& P.S. - Inderpuri, District - Rohtas
13. Ram Pravesh Singh Son Of Late Bhikhari Singh Yadav Resident Of
Village & P.S. - Inderpuri, District - Rohtas
14. Ram Swarup Yadav Son Of Late Balgobind Yadav Resident Of Village
& P.S. - Inderpuri, District - Rohtas
15. Vimli Devi Wife Of Badri Singh Resident Of Village & P.S. - Inderpuri,
District - Rohtas
16. Jayanti Devi Wife Of Ram Narayan Singh Resident Of Village & P.S. -
Inderpuri, District - Rohtas
17. Shanti Devi Wife Of Tulsi Singh Resident Of Village & P.S. -
Inderpuri, District - Rohtas
18. Malti Devi Wife Of Raghuni Singh Resident Of Village & P.S. -
Inderpuri, District - Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashutosh Singh, Adv.

For the Respondent No.1 to 4: Mr. Birju Prasad, G.P. 13

Mr. Ravi Kumar, AC to GP-13

For the Respondent No. 5 to 13: Mr. Anil Kr. Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGEMENT

4 30-11-2016

Heard the parties.

The petitioner has filed the present writ petition for the reliefs enumerated in paragraph-1 of the writ petition, which reads as follows:

“1. That this writ petition is being filed for the following main reliefs:-

I. An appropriate writ order or direction be issued to quash the award preferred and partially paid to the respondent No. 5 to 13 in respect of the acquisition in of the disputed land, described here in below, for the purpose of Navinagar super thermal power project because the disputed land belong to the petitioner and his brothers.

II. An appropriate writ order or direction be issued commanding the respondent authorities to pay the entire compensation amount in respect of the disputed land to the petitioner and his brothers the land belong to them and their right title and interest have been decided in favor of the petitioner by the learned IInd Munsif Sasaram in T.S. No. 36/93.

III. Any other relief or reliefs to which the petitioner is found fit and entitled.”

In the light of the previous order, the respondents have filed their counter-affidavit controverting the claims raised on behalf of the petitioner and raising the question of maintainability of the present writ petition. In the counter-affidavit filed on behalf of the respondent nos. 5 to 13 it has been specifically averred that with respect to the same cause of action, the petitioner had approached the District Collector, Aurangabad for reference of the matter in terms of Section 30 of The Land Acquisition Act, 1894 to the civil court and, accordingly, the matter was referred to the civil court, which is still sub-judice before the learned Sub-Judge, Aurangabad. For better appreciation, paragraph-5 of the counter-affidavit filed on behalf of the respondent nos. 5 to 13 are reproduced herein below:

“5. That in this regard it is stated and submitted here that for the same cause of action the petitioner had filed an appeal before the learned District Collector, Aurangabad bearing Land Acquisition Appeal No. 69/2012 and the Learned Collector in exercise power under Section 30 of the Land Acquisition Act referred the matter to the competent court of the civil Jurisdiction by his order dated 25.4.2013 and presently the matter is subjudice before the sub-judge, Aurangabad bearing L.A. Case No. 4/2013, 5/13, 7/13 and 8/13 in which the petitioner has appeared and evidence is going on and since the matter is sub-judice before the learned Sub-Judge, Aurangabad so the award in question warrants no interference of this Hon’ble Court.”

The facts pleaded in the aforesaid counter-affidavit have not been controverted by the petitioner till date, though copy of the aforesaid counter-affidavit was served earlier.

From the pleadings of the respondents it is apparent that for the same cause of action, the petitioner is pursuing two parallel remedies, one in the civil court and other before this Court, which cannot be permitted in law.

In above view of the matter, the present writ petition is dismissed. However, the petitioner shall be at liberty to raise all the issues of facts and law, which may be available to him with respect to the lands in question, in the aforesaid pending case before the Sub-Judge, Aurangabad.

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(Birendra Prasad Verma, J)

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