

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12545 of 2013

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1. Dr. Girish Chandra Singh son of Late Raja Ram Singh
 2. Satyendra Kumar Singh
 3. Upendra Kumar Singh
- Both are sons of Dr. Girish Chandra Singh, resident of village Saidpur, police Station Baluan, District Chandauli, U.P. at present residing at Ashok Nagar, Professor Colony, Gaya Police Station District Gaya
4. Kamla Devi w/o Late Satish Chandra Singh through power of Attorney holder Dr.Girish Chandra Singh son of Late Raja Ram Singh, resident of village Saidpur, Police Station Baluan, District Chandauli, U.P
- =====

.... Petitioner/s

Versus

1. The State of Bihar
2. District Magistrate-cum-Collector, Aurangabad
3. Additional Collector, Aurangabad
4. Land Reforms Deputy Collector, Aurangabad
5. Anchal Adhikari, Barun, District Aurangabad
6. Ram Pukar Singh son of Late Ram Chalitar Singh, resident of village Khudawan, Police Station Barun, District Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhurub Narayan, Sr.Advocate
Mr.Jitendra Prasad Singh, Advocate

For the Respondent Nos. 1 to 5: Mr. M.K.Singh, AC to SC 6

For the Respondent No.6 : Mr.Hemendra Pd.Singh, Sr.Advocate
Mr.Ramchandra Singh, Advocate
Mr.Jitendra Kumar Singh, Advocate
Mr.Shankar Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 17-05-2016

Heard the parties.

2. The petitioners have filed the present writ petition assailing the validity and correctness of the order dated 18.04.2013 passed in Land Acquisition Appeal Case No. 101 of 2012 by the respondent District Collector, Aurangabad, as contained in Annexure-5 to the writ petition, whereby respondent DCLR, Aurangabad was directed to decide the question of title of the parties over the lands in question under the provisions of The Bihar Land Disputes Resolution



Act, 2009. In the light of the aforesaid order, the matter was considered by the respondent DCLR, Aurangabad in Land Dispute Case no. 73 of 2013 and by his final order dated 08.10.2013, as contained in Annexure-6, he has refused to decide the question of title of the parties, as according to him, award under Section 11 of The Land Acquisition Act, 1894 (in short, “the Act, 1894”) has been prepared for the lands in question and notice under Section 12(2) of the Act, 1894 has been issued to the interested persons. Therefore, according to him, the District Land Acquisition Officer is the competent authority to decide the dispute between the parties

3. The learned senior counsel appearing on behalf of the petitioners submits that in the land acquisition case initiated for acquiring the lands in question, fully detailed in paragraph 4 of the writ petition, award under Section 11 of the Act, 1894 has not been prepared till date. According to him, in fact, entire proceeding for the acquisition of the land in question, has lapsed on account of expiry of statutory period of two years for preparation of award under Section 11 of the Act, 1894 from the date of the publication of declaration under Section 6 of the said Act, 1894.

4. The learned State counsel, appearing on behalf of the respondent nos. 1 to 5, is not in a position to assert by referring to the averments made in the counter affidavit filed on behalf of the respondent nos. 2, 3 and 4 that award has already been prepared with respect to the lands in question.

5. From the pleadings of the parties, it appears that there are a lot of confusion about the orders passed and the notifications issued in land acquisition case in question. Neither copy of the award prepared under Section 11 of the Act, 1894 nor notice issued under Section 12(2) of the Act, 1894 has been brought on the record by any

of the parties, though the findings in the order dated 08.10.2013 (Annexure-6) are otherwise. The District Collector, Aurangabad as also DCLR, Aurangabad do not appear to have examined the entire records in their right perspective before passing the orders as contained in Annexures- 5 and 6 by them.

6. In above view of the matter, this Court is of the opinion that the respondent District Collector, Aurangabad should examine the entire records of the land acquisition case in question afresh and should record a finding as to when notification under Sections 4 as also 6 of the Act, 1894 were issued. He shall also record a finding as to whether any objection under Section 9 of the Act, 1894 was filed by any of the parties and, if so filed, then what was the outcome of that objection. He shall categorically record a finding about the date of preparation of award under Section 11 of the Act, 1894 and notice, if at all, issued under Section 12(2) of the Act, 1894. If the award was prepared, then as to who was found entitled to receive the amount of award with respect to the lands in question.

7. In order to facilitate, the District Collector, Aurangabad to consider the entire matters afresh, in the light of the directions issued above, the impugned order dated 18.04.2013 passed in Land Acquisition Appeal Case No.101 of 2012 by the respondent District Collector, Aurangabad, as contained in Annexure-5 as also the order dated 08.10.2013 passed in Land Dispute Case No. 73 of 2013 by the respondent DCLR, Aurangabad, as contained in annexure-6 of I.A.No.571 of 2014 are hereby set aside and quashed, and the entire matter is remitted back to the respondent District Collector, Aurangabad to decide all the issues, which have been indicated above, afresh, after giving an opportunity of hearing to both sides. The respondent District Collector shall also pass

consequential order, if any, regarding payment of compensation amount, if he comes to a finding that the proceeding for acquisition of the land in question has not lapsed.

8. In order to expedite the matter, the petitioners as also the respondent no.6 are hereby directed to appear before the respondent District Collector, Aurangabad within a period of one month from today with a certified copy of the present order, whereafter the respondent District Collector, Aurangabad shall proceed further to decide the issues indicated above afresh preferably within a period of three months from the date of appearance of the parties. However before passing any final order reasonable opportunity of hearing must be given to the petitioners as also to the respondent no. 6, besides others, if any.

9. The parties shall be at liberty to raise all the issues of facts and law, which may be available to them, before the District Collector, Aurangabad with respect to the lands in question.

10. In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

Tahir/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.05.2016
Transmission Date	