

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6355 of 2014

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1. Mutur Devi, W/o Late Udit Rai
2. Puja Devi, aged about 17 years
3. Aarti Kumari, aged about 14 years
4. Sudhir Kumar, aged about 12 years,
5. Ravi Kumar, aged about 10 years
2 to 5 are minor daughters and Sons of late Udit Rai living under the custody and guardian of their Mother Mutur Devi-petitioner no.1 represented by her living at Digha Chauhatta, P.S.-Digha, District-Patna
..... Petitioner/s

Versus

1. The State of Bihar Represented through its Chief Secretary, Old Secretariat Building, Patna.
2. District Land Acquisition Officer, Patna. Collectorate Patna.
3. Collector-Cum-District Magistrate, Patna Collectorate, Patna.
4. Additional Land Acquisition Officer, Collectorate, Patna.
5. Rly. Administration, Ganga Rail Bridge, East Middle Rly. Construction Department, Dighat Ghat, Patna
6. Deputy Chief Engineer Construction/Rail Bridge, East Middle Railway/Digha Ghat, Patna- 11
..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tilak Sao, Adv.
Mr. Ram Swarup Prasad, Adv.
For the Respondent nos.1to4 : Mr. Prabhu Narayan Sharma, AC to AG
For the Respondent nos.5&6 : Mr. Anil Kumar Sinha, Adv.
Mr. Abhimanyu Deo, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 28-09-2016 Heard the parties.

The matter in issue is the acquisition of the lands in question, fully detailed in paragraph 1 as also the paragraph 5 of the writ petition itself, for construction of Ganga Rail Bridge at Mauza- Digha, District-Patna as also payment of compensation amount to the rightful owner.

From the pleadings of the parties, it is evident that the Land Acquisition Case No.14 of 2010-11 was initiated for acquiring the lands in question for construction of Ganga Rail Bridge. It is also not in dispute that a notification under Section 4 and a declaration under Section 6 of The Land Acquisition Act,

1894 (in short 'Act, 1894') were made by the competent authority and finally an award was prepared under Section 11 of the Act, 1894 in favour of one Sone Lal Rai, Dashrath Rai, Ramanand Rai and Nazo Devi. However, those persons have not been impleaded as party respondents in the present writ petition.

It is further apparent that subsequently the original writ petitioner Bhuali Rai @ Bhuwali Rai, who is now dead and substituted by his heirs, filed his objection before the District Land Acquisition Officer, Patna stating therein that, in fact, the lands in question belong to him and award ought to have been prepared in his favour and not in favour of the aforesaid four persons in whose favour the award has been prepared. It is also not in dispute that on the basis of the award payment has also been made in favour of the awardees.

This matter was heard earlier on 05.07.2016 and the learned counsel appearing on behalf of the respondents were directed to file their separate counter affidavits. In compliance of the aforesaid order, separate counter affidavits on behalf of the respondent nos.2 to 4 as also on behalf of the respondent nos.5 and 6 are being filed, which are taken on the record.

In the counter affidavit filed on behalf of the respondent nos.2 to 4, it has been stated that looking into the claims raised on behalf of the petitioner that the lands in question was belonging to him, but the award has wrongly been prepared in favour of some other persons, a decision has been taken for referring the matter to the Civil Court in terms of Section 18 of the Act, 1894. The learned AC to AG appearing on behalf of the respondent nos. 1 to 4 submits that unless and until the claim of right and title of the petitioner is accepted by the Civil Court on the basis of reference made by the respondent no.2, the issues

raised herein in the present proceeding cannot be effectively considered. He further submits that once the claim of right and title of the petitioners is accepted, the amount paid to the awardees will have to be recovered and thereafter the amount will have to be paid to the petitioners.

The learned counsel appearing on behalf of the petitioners is not in a position to dispute the averments made in the aforesaid counter affidavit filed on behalf of the respondent nos.2 to 4.

In the aforesaid facts circumstances, the present writ petition is disposed of with a liberty to the substituted petitioners to raise their claims with respect to the lands in question before the learned Special Land Acquisition Judge, Patna to whom reference has been made under Section 18 of the Act, 1894.

It is clarified that, if the claim of right and title of the petitioners is upheld by the learned Special Land Acquisition Judge, Patna with respect to the lands in question, then the respondent State authorities shall be obliged to pay adequate compensation amount to the substituted petitioners.

It is also clarified that, before passing any final order, the learned Special Land Acquisition Judge, Patna shall give reasonable opportunity of hearing to the petitioners and all those persons in whose favour the award has been prepared. They shall be at liberty to raise all the issues of facts and law with respect to their claims with respect to the lands in question.

The writ petition stands finally disposed of with the observations and directions made above.

Arvind/-

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(Birendra Prasad Verma, J)