

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25532 of 2013

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Narendra Kumar Mandal, Son Of Late Chhedi Mandal, Resident Of
Village- Khaira (Sameli), Police Station- Falka, District- Katihar

.... Petitioner/s

Versus

1. The State Of Bihar through the Collector, Katihar, Bihar
2. The Collector, Katihar, Bihar
3. The Additional Collector, Katihar, Bihar
4. The Sub-Divisional Magistrate, Katihar, Bihar
5. The Land Acquisition Officer, Katihar, Bihar
6. The Circle Officer, Sameli Block, Katihar, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar

For the Respondent/s : Mr. Krishna Chandra, AC to AG

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 05-07-2016

Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India for quashing the entire proceeding of the Land Acquisition Case No.5 of 2012-13 initiated by the District Land Acquisition Officer, Katihar for acquisition of lands in question for setting up an electric sub-station at Mauza Khaira under Sameli Anchal.

Learned counsel appearing on behalf of the petitioner has essentially raised two issues in support of the present writ petition. Firstly, if the impugned land acquisition proceeding is allowed to be continued for acquisition of the lands in question, fully detailed in paragraph 4 of the writ petition, then the petitioner shall become practically landless person. Secondly, it is submitted that, though a notification under Section 4 of The Land Acquisition Act, 1894 (in short 'Act, 1894') was issued on 25.03.2013, as contained in Annexure-6 to the writ petition, but

till date award has not been prepared. Therefore, the whole land acquisition proceeding has lapsed in view of the mandatory provisions contained in Section 11-A of the Act, 1894.

This matter was heard earlier on 18.04.2016 and again on 28.06.2016, when learned AC to AG appearing on behalf of the respondents was directed to file a counter affidavit. In response to the aforesaid orders, a counter affidavit on behalf of the respondent nos.2 to 6 has been filed today itself in the Court.

By referring to the averments made in the aforesaid counter affidavit, the learned State counsel has submitted that notification under Section 4 of the Act, 1894 was issued on 25.03.2013, which was published in the Gazette on 03.04.2013 and was also published in two daily newspapers on 06.04.2013 and 07.04.2013 respectively. He further submitted that declaration under Section 6 of the Act, 1894 was made on 07.06.2013. However, he fairly conceded that till date the award has not been prepared under Section 11 of the Act, 1894.

After having heard the parties and taking into consideration the averments made in the writ petition as also the counter affidavit filed on behalf of the respondent nos.2 to 6, wherein it has been admitted that the award has not been prepared till date with respect to the lands in question, this Court is of the opinion that, in view of the mandatory provisions contained in Section 11-A of the Act, 1894, the whole land acquisition proceeding has lapsed, as admittedly the award has not been prepared within a period of two years from the date of declaration made under Section 6 of the Act, 1894.

In that view of the matter, the entire land acquisition proceeding vide Land Acquisition Case No.5 of 2012-13 pending

before the District Land Acquisition Officer, Katihar is hereby quashed and set aside. However, liberty is granted to the respondents to initiate a fresh land acquisition proceeding under the new Act in accordance with law.

The writ petition stands allowed to the extent indicated, but with the observations made above. However, there shall be no order as to costs.

(Birendra Prasad Verma, J)

Arvind/-

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