

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8701 of 2014

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Mahant Brij Bihari Das Chela of late Mahant Hariballabh Das, Sri 108
Radhe-Krishna & Hauman Jee, resident of village - Dumari, P.S. - Rahika,
District - Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Collector, Madhubani.
3. The land Acquisition Officer, Madhubani.
4. The Circle Officer, Rahika, Distt - Madhubani
5. The Circle Inspector, Rahika, Distt - Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Hemendra Prasad Singh, Sr.Adv.
Mr. Arbind Kumar, Adv.
For the Respondent/s : Mr. Krishna Chandra, AC to AG.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 25-01-2016 Heard the parties.

The petitioner is aggrieved by the order dated 19.11.2013 passed in Case No.888 of 2012-13 by the respondent District Land Acquisition Officer, Madhubani, as contained in Annexure-5, whereby the petition filed on behalf of the petitioner for referring the land acquisition case under Section 18 of The Land Acquisition Act, 1894 (in short 'Act, 1894') for determination of quantum of compensation by the court has been rejected.

The learned senior counsel appearing on behalf of the petitioner submits that with respect to the lands in question, detailed in the impugned order itself, a land acquisition proceeding was started under the provisions of the Act, 1894 and finally an award was prepared under Section 11 of the Act, 1894. On receipt of the notice issued under Section 12(2) of the Act, 1894, though



the petitioner received the award amount under protest, but he filed a petition on 17.07.2013 for referring the matter to the Civil Court for determination of quantum of compensation. According to him, the amount assessed by the Collector under the Act while preparing the award was inadequate. Therefore, the matter ought to have been referred to the Civil Court for determination, but the respondent District Land Acquisition Officer, Madhubani by usurping the power of Civil Court has gone on to decide the matter on merits and has mechanically rejected the petition filed on behalf of the petitioner for reference.

The matter has been contested by the respondents by filing a counter affidavit, which was sworn by the Senior Deputy Collector, Madhubani. In the counter affidavit, again the respondents have contested the claims of the petitioner by raising the issues on merits and have not furnished any explanation as to how the matter could have been decided by the District Land Acquisition Officer, Madhubani on merits.

It is true that once an award is prepared and awardee is not satisfied with the quantum of compensation or its apportionment, then he/she is entitled to approach the Collector under the Act in terms of Section 18 of the Act, 1894 for making reference to the Civil Court for its determination. At that stage, the Collector can accept the prayer for reference or can reject the said prayer for valid justification, but the Collector cannot go on to decide the merits of the claims of the awardee, which is within the exclusive domain of the Civil Court. In the present case, the respondent District Land Acquisition Officer, while passing the impugned order, has exceeded his jurisdiction/power and, therefore, the impugned order is not sustainable.

After having heard the parties and on examination of the materials available on the record and for the reasons recorded above, the impugned order dated 19.11.2013 passed in Case No.888 of 2012-13 by the respondent District Land Acquisition Officer, Madhubani, as contained in Annexure-5, is hereby set aside and quashed, and the respondent District Land Acquisition Officer, Madhubani is hereby directed to refer the matter to the Civil Court in terms of Section 18 of the Act, 1894, whereafter the matter shall be decided strictly in accordance with law on the basis of the evidence/materials produced by the parties.

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

(Birendra Prasad Verma, J)

Arvind/-

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