

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2984 of 2013

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1. Ras Bihari Chaudhary S/O Late Rupa Chaudhary, R/O Village- Gajaundha, P.S.- Sheosagar, District- Rohtas
 2. Baliram Singh S/O Late Ganesh Mahto, R/O Village- Rasendua, P.S.- Sheosagar, District- Rohtas
 3. Fulgena Devi W/O Bhim Shankar Roy, R/O Village- Rasendua, P.S.- Sheosagar, District- Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue and Land Reform, Bihar, Patna
2. The Principal Secretary Revenue and Land Reforms Department, Government of Bihar, Patna
3. The Commissioner, Patna Division, Patna
4. The Collector, Rohtas, District-Rohtas
5. The Land Acquisition Officer-Cum-Competent Authority, Rohtas (Sasaram)
6. Chief Project Manager, D.F.C.C. I.L., Mugalsarai (U.P)
7. The Union of India through Ministry of Railway, Eastern Zone.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rameshwar Singh

For the Respondent No.1 to 5 : Mr. Krishna Chandra, AC to AG

For the Respondent No.6 : Mr. Ashok Kr. Keshari

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 04-05-2016

Heard the parties.

The petitioners are aggrieved by the order dated 28.08.2012 passed by the Commissioner, Patna Division, Patna, as contained in Annexure-6 to the writ petition, whereby he has refused to interfere with the award prepared by the competent authority under the provisions of The Railways Act, 1989 (in short 'the Act') for the purposes of acquisition of the lands in question originally belonging to the writ petitioners.

It is not in dispute that certain area of lands originally belonging to the writ petitioners were subjected to the acquisition proceeding under the provisions of the Act. It is also not in dispute

that after following the procedure prescribed under the Act, the competent authority prepared an award under Section 20-F of the Act, and on account of non-receipt of award amount by the petitioners, the same was deposited before the competent authority. Notices issued to the writ petitioners in terms of Section 20-H of the Act has been brought on record as Annexure-3 series.

The petitioners, being aggrieved by the determination made by the competent authority under the meaning of the Act, moved before the Arbitrator notified by the Central Government in terms of Section 20-F (6) of the Act. It is to be noted that the Commissioner, Patna Division, Patna has been notified as the Arbitrator for exercising powers under Section 20-F(6) of the Act. It is also to be noted that the lands in question has been acquired for the use of Dedicated Freight Corridor Corporation of India Ltd. and possession over the lands in question has already been taken under the provisions of the Act.

The learned counsel appearing on behalf of the petitioners submits that the competent authority as also the Arbitrator have committed error of fact by treating the lands in question as “agricultural land”. According to him, the lands in question ought to have been treated as “Homestead land” and, therefore, the petitioners are entitled for higher amount of compensation.

Per contra, the learned AC to AG appearing on behalf of the respondent no. 1 to 5 and the learned counsel appearing on behalf of the respondent no. 6 have contested the matter. According to them, the writ petition, at this stage, is not maintainable on the ground that the petitioners have an alternative and equally efficacious remedy under the provisions of Section 20- F(7) of the Act before the civil court of competent jurisdiction, and, therefore, the writ petition is

liable to be dismissed. It is highlighted by the learned counsel appearing on behalf of the respondents that the claim raised on behalf of the petitioners that the lands in question is a homestead land and, therefore, the petitioners are entitled for higher amount of compensation, was considered by the competent authority as also by the Arbitrator and they have recorded a concurrent finding of facts that the land in question is the agricultural land. Accordingly, the award was prepared by the competent authority, which has been approved by the Arbitrator.

After having heard the parties and taking into consideration the facts, noticed above, this Court is of the opinion that in view of concurrent finding of facts recorded by the competent authority as also by the Arbitrator, treating the lands in question as agricultural land, the impugned order dated 28.08.2012, as contained in Annexure-6 cannot be legally faulted.

However, the petitioners, if so advised, shall be at liberty to approach the civil court for grant of appropriate reliefs in terms of Section 20F(7) of the Act. If the petitioners approach the civil court by invoking the jurisdiction under the aforesaid provisions, then they shall be at liberty to raise all the issues of facts and law, which may be available to them, with respect to the lands in question.

The writ petition stands dismissed with the observations and directions made above.

(Birendra Prasad Verma, J)

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