

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20719 of 2010

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Chandeshwar Prasad Singh S/O Late Ram Pawitar Narayan Singh, R/O Vill.- Araji
Sahbajpur, P.O.- Harauli, P.S.- Sadar Hajipur, Distt,- Vaishali Petitioner/s
Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna
 2. The Commissioner-Cum-Secretary Revenue & Land Reforms Department,
Govt. of Bihar, Patna
 3. The Collector-Cum-Revenue Officer, Vaishali
 4. The District Land Acquisition Officer, Vaishali, Hajipur
 5. Nand Kishore Singh S/O Gauri Shankar Singh, R/O Vill.- Ismailpur, P.S.- Sadar
Hajipur, Distt.- Vaishali Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Lakshmi Kant Tiwary, Advocate
Mr. Anil Kumar, Advocate
Mr. Ujjawal Kr. Sinha, Advocate
For the Respondent Nos. 1 to 4: Mr. Ajay Kumar Sharma, AC to PAAG-1
For the Respondent No. 5 : Mr. Amish Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 26-10-2016

Heard the parties.

2. The matter in issue in the present proceeding filed under Article 226 of the Constitution of India is acquisition of a parcel of land admeasuring 70 decimals of Khata no. 32 appertaining to Khesra No. 1503 situate at Village Bishunpur Patwa in the district of Vaishali for Hajipur-Sugauli New Railway Line on the basis of Land Acquisition Case No. 2 of 2005-06 initiated and concluded under the provisions of The Land Acquisition Act, 1894 (in short “the Act, 1894”).

3. The petitioner is aggrieved by award dated 20.05.2008 (Annexure-4) prepared in aforesaid Land Acquisition Case No. 2 of 2005-06 by the respondent District Land Acquisition Officer, Vaishali (Hajipur), whereby the aforesaid award was prepared in the name of private respondent no.5 and accordingly award amount has been paid to him on the same day. The petitioner is



also aggrieved by order dated 17.05.2008 (Annexure-3) passed by the respondent District Land Acquisition Officer, Vaishali (Hajipur), whereby on the basis of sale deeds the land in question has been treated to be the lands of the respondent no.5. The petitioner has also challenged the order dated 12.05.2009 as also 13.05.2009, as contained in Annexures-9 and 10 respectively, passed by the respondent District Land Acquisition Officer, Vaishali (Hajipur) whereby the objections filed by the petitioner that the land in question belongs to him have been rejected.

4. The learned counsel appearing on behalf of the petitioner has argued the matter at length raising several disputed questions of facts. He has also pointed out that a partition suit as also a first appeal are still subjudice with respect to the lands under acquisition. Therefore, according to him, award could not have been prepared in favour of the respondent no.5 and amount of compensation could not have been paid to him. Though, he has argued the matter at length, but he has not been able to show any document that the petitioner had filed any petition under Section 18 or 30 of the Act, 1894 seeking reference of the matter to the civil court. He has also not been able to point out violation of any statutory provisions while the impugned award was prepared and the impugned orders were passed

5. The learned State counsel appearing on behalf of the respondent nos. 1 to 4 and the learned counsel appearing on behalf of the respondent no.5 have contested the matter and have asserted that in no civil suit, the claim of title raised on behalf of the petitioner with respect to the lands in question has been accepted and that of respondent no.5 has been disbelieved. They also contended that unless and until title of the petitioner is accepted by the civil court of competent jurisdiction in view of the purchase made by respondent



no.5 from one of the co-sharers of the writ petitioner, he cannot be permitted to assail the correctness and validity of the impugned award and the order of payment of compensation amount at this stage. They have also pleaded that if the petitioner was at all aggrieved by the preparation of the award in favour of the respondent no.5, then he ought to have filed a petition under Section 18 of the Act, 1894 for seeking reference of the matter to the Civil Court at least for apportionment of the award amount, but that has not been done.

6. After having heard the parties and taking into consideration the materials available on the record, this Court is of the opinion that all the issues raised on behalf of the petitioner with respect to the lands in question are based on disputed questions of facts. Indisputably, award was prepared in favour of the respondent no.5 and award amount was paid to him way back in the year 2008, but till date the petitioner has not filed any petition seeking reference of the matter under the provisions of the Act, 1894. This is also an admitted position, even as per submission of the learned counsel for the parties, that the conclusive decision by the Civil court has not been reached with respect to the title of the petitioner over the land in question.

7. In above view of the matter, this Court is not inclined to accede to the prayer made on behalf of the petitioner in the present writ petition. The writ petition is devoid of merit and is, accordingly, dismissed.

8. However, it is clarified that if the petitioner finally succeeds and his right and title over the lands in question is declared conclusively by the civil court in the pending partition suit or in the pending first appeal, then he shall be at liberty to agitate his grievances before the Collector under the Act for grant of appropriate relief to him with respect to the award amount.

9. The writ petition stands finally dismissed with the observations made above.

(Birendra Prasad Verma, J)

Tahir/-

AFR/NAFR	
CAV DATE	
Uploading Date	27.102016
Transmission Date	

