

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20796 of 2014

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1. Sudhir Kumar Singh son of late Ram Naresh Singh
2. Sunil Kumar Singh son of late Ram Naresh Singh
3. Anil Kumar son of late Ram Naresh Singh
4. Ajit Kumar Singh son of late Ram Naresh Singh
5. Ranjeet Singh son of late Ram Naresh Singh
6. Surjeet Kumar Singh son late of Ram Naresh Singh
7. Most. Dhanpati Devi wife of late Ram Naresh Singh

All resident of village - Chakiya Jalalpur, P.O. - Gultenganj, P.S. - Chhapra
Mufassil, District - Saran.

.... Petitioner

Versus

1. The State of Bihar
2. Commissioner, Saran Division, Chhapra
3. Collector, Saran, Chhapra
4. District Land Acquisition Officer, Saran, Chhapra
5. Arbitrator-cum-Additional Collector, Saran, Chhapra.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajendra Narayan, Sr. Advocate.
For the Respondents : Mr. D.K. Sinha, AAG-2

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-10-2017

I.A. No. 6506 of 2016

This interlocutory application has been filed for substitution of the sole petitioner, who died on 08.07.2016, during the pendency of the writ petition.

2. Learned counsel for the respondents appears and has no objection to such prayer.

3. Having regard to the nature of the prayer, let the name of the petitioner be substituted with the name of his legal heirs, namely, Sudhir Kumar Singh, Sunil Kumar Singh, Anil Kumar, Ajit



Kumar Singh, Ranjeet Singh, Surjeet Kumar Singh, and Most. Dhanpati Devi as described in paragraph-1 of the I. A. The interlocutory application stands disposed of.

4. Learned counsel for the petitioner is permitted to make necessary corrections in the array of the parties in course of the day.

C.W.J.C. No. 20796 of 2014

5. The present writ petition has been filed for the following reliefs:

(i) Issuance of an appropriate writ including a writ in the nature of writ of mandamus commanding the respondents to forthwith refund the sums of money deducted towards TDS in making payment of amounts of compensation on acquisition of the petitioner's lands of Survey Nos. 35, 45, 49, 184 and 185 of Khata No. 136 under Thana No. 313 of Mauza Chakiya in Sadar Chhapra for construction of road and/or its widening for the purpose of 4 lane NH 19 from Hajipur to Chhapra to Gopalganj. In respect of the acquisition of petitioner's lands in the acquisition proceedings of 2010-2011 the respondents gave notices to the petitioner under Section 12(2) of the Land Acquisition Act, 1894 (hereinafter referred to as the 'old Act'), for payment of 80% of the award amount in respect of 2 items of Rs. 12,95,118/- and Rs. 72,57,286.41 and in the 3rd item for Rs. 3,07,010.55 but while making payment in July, 2014, though nothing was deducted from the payment of Rs. 12,95,118/- yet from amounts of Rs. 3,07,010.55 and Rs. 72,57,286.41, sums of Rs. 20,701.55 and Rs. 1,79,640.24 respectively were arbitrarily deducted in the name of TDS whereas the



payments were due from a long date as award had been prepared 3 years ago and the National Highway Authority of India (in short NHAI) had given the amounts to the respondents more than a year ago and yet the respondents were taking their own time in a leisurely and casual manner in making payment and yet when made payment after a long time they illegally deducted the aforementioned sums towards TDS which they be directed to refund forthwith with interest and cost.

(ii) Issuance of an appropriate writ in the nature of mandamus directing the respondents to forthwith recalculate the amounts of compensation paid to the petitioner as the proceedings though commenced in 2010-2011 yet the payments thereof have been made very belatedly after 3 years when the new Act, i.e. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'new Act') had already come into operation with effect from 01.01.2014 and therefore the compensation ought to have been paid under the provisions of the new Act since such much belated payment of compensation cannot be allowed to cause any disadvantage to the petitioner because whatever delay has occurred it is attributable to the respondents and for whose lapses and laches the petitioner and/or such other persons cannot be made to suffer.

(iii) Issuance of an appropriate writ including a writ in the nature of writ of mandamus directing/commanding the respondents to apply the correct principle in computation of compensation of acquired lands with reference to the market rate of such lands and the prescribed Government rate for registration of such lands and when rates are correctly applied the amounts of compensation would be



more than double the amounts of compensation aforementioned and therefore after correctly calculating the amounts of compensation on correct principle the balance/remainder of the recalculated compensation amount be kindly directed to be paid forthwith. In this regard the respondents have to keep in mind that the computation has been done by them on the basis of the rate which was applicable in 2011-2012 and the payments have been made in July and September, 2014, but in the meantime the new rates came into operation with effect from March, 2013, and therefore all computations and payments are to be made and done on the basis of the rates which are applicable since March, 2013. Thus the difference amounts be also ordered to be paid to the petitioners with interest.

(iv) Issuance of an appropriate writ in the nature of writ of mandamus to pay all such sums of money with interest @ 18% per annum due to delay and illegality committed by the respondents.

(v) Issuance of any other appropriate writ(s), order(s) direction(s) as may be deemed fit and proper in the facts and circumstances of the case.

6. At the very outset, this Court takes note of the submission of Mr. Rajendra Narayan, learned Senior counsel appearing on behalf of the petitioners that the several representations filed before the authorities including the last one dated 20.02.2014 filed before the Collector, District-Saran, Chhapra remain pending. It has been submitted that the petitioners are entitled to the higher compensation also in view of the order of the Arbitrator-cum-Additional Collector, Saran, Chhapra in terms of memo no. 20 dated



22.02.2012 and memo no. 28 dated 19.03.2012 (Annexure-7).

7. In the above view of the matter, this Court is of the view that the ends of justice will be met if the petitioners are granted liberty to file a fresh representation before the Collector, Saran, Chhapra (respondent no. 3). If any such representation is filed within a period of two weeks from today, the same shall be considered and disposed of within a further period of four months thereafter, in accordance with law.

8. The writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	05.10.2017
Transmission Date	N.A.

