

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.340 of 2015

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Osihar Prasad Singh, son of Dina Nath Singh Resident of village - Bela Tola
Dariapur, District - Saran Chapra

.... Petitioner

Versus

1. The State of Bihar
2. The Union of India through Chief Engineer, Rail Pariyojana Chamber Bhawan (Patna) EC Railway, Patna
3. Deputy Chief Engineer, Rail Pariyojana Chamber Bhawan, Patna, EC Railway, Patna.
4. District Land Acquisition Officer, Chapra
5. District Magistrate, Saran Chapra
6. Assistant Engineer Rail Pariyojana, Patna
7. Anchala Adhikari Dariyapur Block
8. Project Manager 1 & 7 Company Railway Chamber Factory village Bela P.O. Arbind Nagar, P.S. Dariyapur District - Saran

.... Respondents

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Appearance :

For the Petitioner	: Mr. Vinod Gautam Mr. Ram Naresh Roy, Mr. Pramod Singh, Advocates,
For Respondent-Railway:	Mr. Ashok Kr. Keshri, Sr. Advocate Mrs. Binita Singh, Advocate
For the State	: Mr. Anujit Sinha, AC to Pr. AAG 2

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 31-10-2017

Heard learned counsel for the petitioner, learned counsel
for the respondent-Railway as well as learned counsel for the State.

2. The present writ petition has been filed for quashing the order dated 10.03.2014 in Award No. 232 arising out of Case No. 5 of 2005-2006, project Rail Chakka Kharkhana Dariyapur passed by the District Land Acquisition Officer (Annexure-5) and also for issuing a writ of mandamus commanding the respondents to adhere to the



provisions of Land Acquisition Act, 2013 while taking recourse to law for completing the formalities in awarding compensation to the petitioner.

3. Learned counsel for the petitioner submits that he is the land holder of the raiyati land bearing Khesra Nos. 5950 and 5952 in village Bela Chapra. While acquiring the land of the petitioner, some excess land was also taken possession of by the respondents and pursuant to the direction of this Court passed in MJC No. 1821 of 2012, a proceeding for acquisition of land in respect of the said excess land was undertaken. Accordingly, the excess land was acquired and compensation of Rs. 39,109.29 was offered in terms of the impugned notice dated 10.03.2014 (Annexure-5). Learned counsel for the petitioner submits that the petitioner is entitled to compensation on the basis of the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 which would be much more than the amount offered and accordingly seeks directions to the respondents in that behalf.

4. Learned counsel for the respondents, on the other hand, raises objection to the maintainability of the writ petition in view of the alternative remedy available under Section 18 of the Land Acquisition Act, 1894.

5. Having regard to the rival submissions of the parties, this Court is not inclined to interfere in the matter in view of the



alternative remedy available to the petitioner in terms of the provisions of Section 18 of the Land Acquisition Act, 1894 which clearly provides as follows—

“18. Reference to Court – (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made –

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date the Collector's award whichever period shall first expire.”

6. In the above view of the matter, the writ petition stands disposed of with liberty to the petitioner to approach the Collector, Saran at Chapra for referring the matter for determination of the Court in terms of the provisions of the Act referred to above.



(Vikash Jain, J)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03.11.2017
Transmission Date	N.A.

