

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19735 of 2014

=====

1. Md. Khalikur Rahman Khan @ Khalikur Rahman Son of Md. Kurban Khan
resident of village - Sunderpur, Police Station - Pirpanti, District - Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Revenue & Land Reforms Department, Bihar, Patna
3. The District Magistrate, Bhagalpur
4. The District Land Acquisition Officer, Bhagalpur
5. The Circle Officer, Pirpanti, Bhagalpur
6. Kurban Khan Son of Late Safat Khan @ Junglee Khan
7. Safikur Rahman Son of Kurban Khan
8. Taufik Khan Son of Kurban Khan
9. Raju Khan Son of Kurban Khan
10. Karu Khan Son of Kurban Khan
11. Lalu Khan Son of Kurban Khan All from Sl. No. 6 to 12 are residents of
village - Sunderpur, Police Station - Pirpanti, District - Bhagalpur

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh Satya Prakash
For the State : Mr. P.S. Sharma
For Respondent no.6 : Mr. Ansul,
Mr. Shiv Kumar Prabhakar,
Mr. Uma Shankar Sharma

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 14-09-2017

Heard learned counsel for the petitioner and learned
counsel for the State as well as respondent no.6.

In the present writ petition, petitioner is challenging the
order dated 24.8.2014 passed by the District Land Acquisition
Officer, Bhagalpur by which he has decided the entitlement of
the award amount in between petitioner and private respondent.



Kurban Khan (respondent no.6) is father of petitioner. Respondent no.6 has six sons, namely, Safikur Rahman, Taufik Khan, Raju Khan, Karu Khan, Munna Khan (dies issueless), Lalu Khan and present petitioner. For the establishment of Thermal Power Station a Gazette notification was issued and under Section 4 of the Land Acquisition Act (hereinafter referred to as the Act) land whereby large track of fertile land was acquired for the establishment of Thermal Power Station at Kahalgaon. The land of the petitioner and private respondents were also acquired, as per pleading of the parties the total land pertaining to parties of this case for acquisition were appertaining to Mauza Harincol, Thana No.81, khata No.374, Kheshra No.1983, area 1 Acres 12 2/3 decimals.

Award was prepared on the basis of revenue record in the name of all share holders, namely, father and all sons whereafter father raised an objection and claimed that it is a self acquired land along with brother Sabbir Khan. The objection was filed by the father that partition deed was prepared defining share in the name of the father and sons but they do not have a right over the property which is self acquired by him whereas petitioner has taken a plea that award should be prepared on the basis of the partition deed and revenue record which is basis for preparation



of award. The Land Acquisition Officer placed reliance on Mohadam Law and held that only Kurban Khan will be entitled to the entire property and as has been informed by the learned counsel petitioner, 80% award amount has been paid.

Now when the objection has been raised with regard to the share, the Chapter IV of the Act deals with the apportionment of compensation of award amount. Section 29 provides that where there were several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award and as between such persons the award shall be conclusive evidence of the correctness of the apportionment but when amount of compensation has been prepared under section 11 but if any dispute arises with respect to apportionment of the same or any part thereof or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.

When there is dispute about apportionment, the Land Acquisition Officer instead of deciding the right and entitlement, should have referred the matter to the Court and decision of the Court will be binding upon both parties.

The order dated 24.8.2014 passed by the Land Acquisition



Officer, Bhagalpur is set aside and Land Acquisition Officer is directed to refer the matter to the Court within a period of four weeks from the date of receipt/production of a copy of this order and the Court will decide the same as early as possible. The entitlement of share of award will be dependent upon the outcome of the Court. If father has received the award, in such circumstances, the Court will take into consideration and pass necessary order in accordance with law.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.9.2017
Transmission Date	NA

