

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14060 of 2014

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1. Krishna Kumar Singh son of Late Sheo Bharat Singh R/o Village - Rustamganj, P.S. Naubatpur, District - Patna
 2. Shachi Kant Sharma Son of Late Rajendra Prasad Singh resident of village - Chesi, Police Station - Naubatpur, District - Patna
 3. Shashi Kant Sharma Son of Late Rajendra Prasad Singh resident of village - Chesi, Police Station - Naubatpur, District - Patna
 4. Amar Kumar Singh Son of Late Rajendra Prasad Singh resident of village - Chesi, Police Station - Naubatpur, District - Patna
 5. Ajay Kumar Singh son of Late Rajendr Prasad Singh resident of village - Chesi, Police Station - Naubatpur, District - Patna
 6. Raghevendra Bhagwan through Sudersna Acharya (Mathadhish) son of Shyami Dharnidharna Acharya, Kretpali Asthan, P.S. Naubatpur, District - Patna
 7. Baleshwar Sharma Son of Late Ramchandra Singh Village - Pali, P.S. Naubatpur, District - Patna
 8. Yagya Nand Sharma Son of Late Ram Pravesh Singh resident of village - Pali, P.S. Naubatpur, District - Patna
 9. Arvind Kumar Sharma Son of Late Rajdeo Singh resident of village - Pali, P.S. Naubatpur, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary Land Acquisition and Land Reforms Department, Government of Bihar, Patna
3. The Director, Land Acquisition and Land Reforms, Department, government of Bihar, Secretariat, Patna
4. The District Magistrate-cum-Collector, Patna
5. The Managing Director, Bihar State Road Construction Department, Government of Bihar, Mechanical Work Shop Campus, near Airport, Sheikhpura, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gopal Govind Mishra

For the Respondent/s : Mr. Prabhu Narayan Sharma, AC to AG

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 17-10-2017

1. Heard learned counsel for the petitioners as well as
learned counsel for the respondents.

2. Petitioners have prayed for quashing the notification



no. 15/D.L.A. Patna (N.H.W) 17/11 22125 dated 28.11.2011 which relates to village Chesi, notification no. 15/D.L.A. Patna (N.H.W) 04/12 401/Patna dated 14.2.2012 which relates to village Pali, notification no. 15/D.L.A. Patna (N.H.W) 13/11 1660 Patna dated 15.9.2011 which relates to village Mamrejpur and also for quashing land acquisition proceeding in respect of lands of the petitioners and also for issuance of mandamus directing the respondents to initiate a fresh acquisition proceeding and ensure the payment of acquired lands of the petitioners in accordance with Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (in short 'Act, 2013').

3. The claim of the petitioners is that lands of the petitioners of the aforesaid villages were acquired by the concerned authority in the year 2011 and 2012 vide several notifications but neither compensation amount was paid nor possession was taken and, therefore, the aforesaid acquisition proceeding shall be deemed to have lapsed under section 24(2) of the Act, 2013.

4. Counter affidavit has been filed on behalf of respondent no.5 in which it has specifically been pleaded that notifications for acquisition of lands were made under Land



Acquisition Act, 1894 on 13.2.2012 and 28.11.2011 in respect of the aforesaid villages and subsequently, award of village Pali was notified in August, 2012 and similarly, award of village Chesi was notified in September, 2012. It has further been pleaded that rate of compensation was calculated on the basis of the prevailing rate just before notification of section 4 of Land Acquisition Act, 1894 but since compensation could not be paid to the farmers of the aforesaid villages, respondents have already decided to make payment of compensation in accordance with Act, 2013 taking new multiplying factor i.e. four times more than previous rate calculated.

5. Learned counsel appearing for the petitioners, having relied upon several decisions of the Hon'ble Apex Court as well as this court, submitted that award of the aforesaid villages, admittedly, was prepared in the year 2012 and, therefore, five years have already elapsed and, therefore, in the aforesaid circumstances, section 24(2) of the Act, 2013 is applicable in the present case but I am not at all convinced with the aforesaid submissions because for application of section 24(2) of the Act, 2013, pre-requisite condition is that award should be prepared five years prior to commencement of the Act, 2013 and hence, in my opinion, section 24(2) of the Act,



2013 is not applicable in this case. Moreover, grievance of the petitioners is covered under the proviso of the aforesaid section and the aforesaid fact has been admitted by respondent no.5 in the counter affidavit because respondent no.5 has specifically pleaded that calculation of the compensation amount is being made in accordance with Act, 2013.

6. In view of the aforesaid facts and circumstances, this petition stands disposed of. However, while calculating compensation amount in accordance with Act, 2013, the concerned authority shall keep in mind letter no. 1342 dated 4.12.2015 (annexure 8 to the second supplementary affidavit) and shall strictly proceed with the guideline given in the aforesaid letter while calculating compensation amount in respect of acquired lands of the petitioners.

Shahid

(Hemant Kumar Srivastava, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.10.2017
Transmission Date	NA

