

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21339 of 2014

=====

Gopal Kumar Son of Late Halkhori Mahto resident of village- Karwandia tola,
Sita, Bigha P.S Sasaram Muffasil, District- Rohtas.

.... Petitioner

Versus

1. The Union of India through the Divisional Railway Manager, E.C. Railway, Mughalsarai.
2. The Chief Project Manager, D.F.C.C.I.L. (Varanasi) Mughalsarai.
3. The Divisional Commissioner, Patna Division, Patna.
4. The Competent Officer-cum-District Land Acquisition Officer, Rohtas, Sasaram.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Dhaneshwar Prasad Gupta, Advocate
For the State : Mr. Bishwa Bibhuti Kr. Singh, AC to AG
For Respondent-Railway: Mr. Ashok Kr. Keshri, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-10-2017

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

2. The present writ petition has been filed for quashing the order dated 28.02.2013/18.03.2013 passed by learned Commissioner, Patna Division, Patna in arbitration case, by which the award dated 16.06.2011 declared by the Competent Officer-cum-District Land Acquisition Officer, Rohtas with regard to the acquired land of the petitioner situated in Mauza Karwandia, P.S. Sasaram, District Rohtas, Khata Nos. 22 and 225, Plot Nos. 136 and 137, total area 63 decimal was upheld and further be pleased to direct the respondent authorities for re-determination of the compensation amount as per the provision of law, and subsequently pay the



remaining compensation amount with statutory interest to the petitioner.

3. Learned counsel for the petitioner makes a short submission in support of his claim for payment of higher rate of compensation for his land, situated under Mauza Karwandia, P.S. Sasaram, District Rohtas bearing Khata Nos. 22, 225, Plot Nos. 136-137, area 10.1457 hector and 0.1093 hector, total area of 0.2550 hector, acquired by the respondent-Railway. It is submitted that the petitioner has been paid compensation treating his land to be agricultural land whereas payment has been made to other persons treating their neighbouring lands as residential lands such as Khata Nos. 131, 132, 133 and 134 even though their lands were also agricultural lands as evident from Annexure-1.

4. Learned counsel for the respondents appears and opposes the writ petition submitting that no fault can be found from the impugned orders of the Commissioner passed in Arbitration Case No. 16/2010-11 and the compensation has rightly been determined by treating the petitioner's land as agricultural land.

5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court does not find any merit in the writ petition. The petitioner has not brought on record any material or document in support of his submission that the petitioner's land is either residential or



commercial. Even if it be assumed for the moment that some other persons have erroneously been paid higher compensation treating their agricultural lands as residential lands, that by itself would not create a right in the petitioner to receive higher compensation on the well settled principle that illegality cannot be permitted to be perpetuated. The claim of the petitioner that he is entitled to compensation for his land on the basis that such land was residential or commercial land must stand on its own legs. But in the present case no material has been brought on record in support of such claim. No ground has hence been made out for interference by this Court.

6. In the above circumstances, the writ petition stands dismissed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	14.10.2017
Transmission Date	N.A.

