

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1723 of 2014
IN
Civil Writ Jurisdiction Case No. 2403 of 2014**

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Sheoji Sah Son of Mauze Sah, Resident of Village - Bisfi Gola, P.S. - Bisfi, District
- Madhubani

.... Appellant/s

Versus

1. The State of Bihar
2. The Secretary to the Government, Revenue and Land Reforms Department,
Government of Bihar, Patna
3. The Collector, Madhubani
4. The Additional Collector, Madhubani
5. The Land Acquisition Officer, Madhubani

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Suraj Narayan Singh, Advocate Mr. Saroj Kumar Advocate
For the Respondent/s	:	Mr. Vikas Kumar, Advocate, AC to A.G.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 16-05-2017

Heard learned counsel for the appellant and learned
counsel for the Respondent-State.

The writ application of the appellant was dismissed by
the Learned Single Judge, vide order dated 21.08.2014, who



refused to interfere with the decision of the State to acquire the land for setting up of an ITI Institute.

The earlier notification, issued under the Land Acquisition Act, was challenged in the previous writ application. The Learned Single Judge after hearing the parties had remanded the matter back to the authorities for giving opportunity of hearing to the appellant. There were primary two objections (1) that this four and half kattha of land was the only property, which was purchased by him, having four sons and he will become landless and (2) that land of one Md. Anzar, having 52 kattha of land, was agreed to be acquired, but only 40 kattha were acquired and rest were left by the respondents. Therefore, there was discrimination.

Both these issues have been considered by the Learned Single Judge. The finding, which has emerged, has been taken note of by the Learned Single Judge in following words:

“Having considered the rival contention of the parties, after order of this Court petitioner had filed an objection and was given personal hearing and the authority concerned, after proper enquiry, found that the petitioner has not been residing in the house constructed by him over the land rather he found petitioner is residing at his parental house at Bisfi Gola with his family members, meaning thereby he has abandoned the house constructed over disputed plot, in this view, the finding recorded by the Additional Collector cannot be said to be a perverse finding and this fact also appears from the objection



filed by the petitioner where he himself accepted that the petitioner and his family members are not residing at the disputed plot.

In view of the judgment of the Hon'ble Supreme Court in K. Balaji case (supra) where the Hon'ble Supreme Court has said that it is to be seen that the Government is in need of land for the public purpose and the procedure that has been provided under the Act has been followed properly.

It has further been held that it is for the Government to decide whether this property is to be acquired or some other property is to be acquired. Authorities are best judge to decide, which will be most suitable for the project. It is not available to an individual to say that some other property is more suitable. If that will be allowed to be done in that manner, then every owner would say that some other property is better for the project.

In view of the judgments of the Hon'ble Supreme Court referred to above, the order passed by the Additional Collector cannot be said to be perverse or misplaced or illegal. However, while preparing the compensation it goes without saying that certainly the petitioner will be entitled to compensation in terms of Right to Fair Compensation and Transparency of land Acquisition, Rehabilitation and Resettlement Act 2013."

In view of the above, the Learned Single Judge's decision and finding cannot be said to be erroneous under the new Land Acquisition Act. The appellant will be more than compensated



by payment of four times the market value as it exists now and, therefore, there cannot be any bargain on his part on a spacious ground, which was found to be not correct. He is neither landless or that there is discrimination in matter of acquisition.

Appeal has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

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