

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1041 of 2015

=====

Sahdeo Mahto, son of Late Bhuklu Mahto, Resident of village - Bajitpur Dumra,
P.S. Dumra, Block Dumra, District - Sitamarhi

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Sitamarhi
3. The District Land Acquisition Officer, Sitamarhi
4. The Circle Officer, Dumra, Sitamarhi

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Manoj Kumar Sinha, Advocate.

For the Respondents : Mr. Ajay Kumar Rastogi, AAG

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-10-2017

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for a
direction to the respondents to make payment of compensation
amount of his acquired land appertaining to *Khata No. 193, Khesra No.
1602* having an area of 0.004 Hectare for which 80% of award has
already been paid and rest 20% of award amount has not been paid
till date; as also the land bearing *Khata No. 314, Khesra No. 1541*
having an area of 0.009 Hectare has been acquired for construction of
Four-Lane of N.H. 77 Sitamarhi for which compensation has not been
paid.

3. Learned counsel for the petitioner submits that



pursuant to the acquisition of his land bearing *Khata No. 193, Khesra No. 1602*, an amount of 80% of compensation awarded has already been paid to the petitioner but the respondents are not making payment of the remaining amount of 20% of the compensation. It is further stated that the petitioner has also not received any compensation in respect of his land in *Khata No. 314, Khesra No. 1541* which had been acquired for construction of Four-Lane of N.H. 77 Sitamarhi.

4. Mr. Ajay Kumar Rastogi, learned AAG appearing on behalf of the respondents, refers to the counter affidavit to submit that the claim of the petitioner is misconceived. A spot verification of the land was made by the Government Amin on 27.02.2015 when it was found that the petitioner was not in possession of the land in question which was duly stated in the Amin's report dated 02.03.2015. It was found that in fact, it was Sanjay Mahto who was in possession of the said land and on whose objection, payment of the remaining amount of 20% of the award had been stopped. Considering that the petitioner had obtained payment of 80% of the award through fraudulent means by suppressing material fact, a notice dated 14.04.2015 for recovery of the amount already paid to him had been issued. Learned counsel for the respondents also submits that as regards claim for payment of compensation relating to land bearing *Khata No. 314, Khesra No. 1541*, the same has already



been paid to Sri Baldeo Mahto, cousin of the petitioner, on the basis of identification and consent of the petitioner and hence the petitioner cannot claim payment of the same from the respondents.

5. Having heard learned counsel for the parties and on a careful consideration of the materials on record, this Court is not inclined to interfere in the matter. Considering the stand of the parties with regard to the petitioner's land bearing *Khata No. 193, Khesra No. 1602*, it is clear that the issue involves a disputed question of fact and further the petitioner had suppressed the material fact in the matter of claiming compensation. Such issue cannot be decided by this Court in its extraordinary writ jurisdiction. As regards the land bearing *Khata No. 314, Khesra No. 1541*, the respondents claimed to have made payment of the compensation amount to the petitioner's cousin. The petitioner, on the other hand, has pleaded in paragraph-11 of the writ petition that his cousin cunningly received the amount of award and in respect of which a detailed application before the Collector, Sitamarhi has been filed. Pursuant to the direction of the District Magistrate, the Land Acquisition Officer has already sent a report contained in letter no. 769 dated 23.09.2013.

6. The writ petition is accordingly disposed of with the observation that the District Magistrate, Sitamarhi shall consider and dispose of the claim of the petitioner with regard to land bearing *Khata No. 314, Khesra No. 1541* having regard to the report dated



23.09.2013 of the Land Acquisition Officer.

Md. Ibrarul/BT

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.10.2017
Transmission Date	N.A.

