

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17894 of 2015

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1. Heera Lal Chaudhary
2. Haro Lal Chaudhary Both son of Late Babu Lal Chaudhary
3. Manti Devi W/O Arjun Chaudhary All are resident of Vill- Bijyvanpar,
P.O.- Mahanandpur, P.S.- Dipnagar, Distt- Nalanda.

.... Petitioners

Versus

1. The Union of India through its Secretary of Road Transport and Highway Department
2. The State of Bihar through the Principal Secretary Department of Revenue and Land Reforms Government of Bihar, Patna.
3. The District Magistrate, Nalanda at Biharsharif
4. The District Land Acquisition Officer, Nalanda at Biharsharif
5. The Circle Officer, Nalanda at Biharsharif.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Tiwary, Adv.
For the Respondent/s : Mr. S.D. Sanjay, A.S.G.
Mr. A.B.Mathur, C.G.C.
For the State : Mr. Ashutosh Ranjan Pandey, AAG-15

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 06-08-2018 Heard learned counsel for the petitioners, learned AAG-15 and learned Additional Solicitor General appearing on behalf of Union of India, Road Transport and Highway Department.

The petitioners have filed this writ petition for a direction to the respondents that Plot No.2613, 2664, 2665 and 2725 be treated as raiyati land on the basis of record of rights prepared by the State of Bihar and restrained the respondents from demolishing the house of the petitioners standing on the plot no.



2613, 2664, 2665 and 2725.

Learned counsel for the petitioners submits that the lands of plot no. 2613, 2664, 2665 and 2725 were settled in favour of ancestors of the petitioners through Hukumnama executed by ex-land lords and accordingly the names of the petitioners were mutated and Jamabandi was created in the name of the petitioners. On 01.07.2013, a Gazette notification vide S.O.1963 (E) with respect to construction of NH31 (Rajauli, Nawada, Bihar Sharif, Bakhtiyarpur Section) was published notifying the acquisition of the land of plot no.2613, 2664, 2665 and 2725 but in the aforesaid notification the lands of the petitioners were shown as Gairmajarua Aam Malik. Learned counsel for the petitioners submits that the land of plot no.2613 of Khata No.354, area 4 decimals was acquired vide L.A. Case No.15/60-61 and Sundari Devi received compensation. The part land of plot no.2613, Khata no.354 has also been notified for acquisition but the nature of land is shown as Gairmajarua Aam.

The Union of India, respondent no.1 has filed counter affidavit. The State has not filed any counter affidavit but learned Additional Solicitor General and learned AAG-15 have submitted that there is a provision under Section 3H of the National Highways Act, 1956 to raise objection and under Sub section 3 of



Section 3H, the competent authority shall determine the persons who are entitled to receive the amount of compensation which payable to the land holders. It is further submitted that the petitioners have not filed any papers along with their objection that the lands acquired for construction of national highways belong to them. It appears that the petitioners have also not filed the order of Land Acquisition Case No.15/60-61, in which Sundari Devi is said to have received compensation. If the petitioners file any objection before the competent authority under Section 3(a) of the National Highways Act, 1956, the authority shall consider the claim of the petitioners and shall pass order in accordance with law.

Having considered the submissions of both sides and on perusal of the record, I find that the petitioners have claimed the lands to be their own on the basis of settlement made by the ex-land lords and after settlement the names of the petitioners were recorded in the record of rights and Jamabandi was created in their names. It is also pertinent to mention here that from perusal of Annexure-8, it appears that the lands of plot no.2613 measuring 4 decimals of khata no.354 was acquired by Indian railway and Sundari Devi, on the basis of record of rights received compensation and the competent authority did not raise any



objection about the ownership of the lands and disposed of the claim of the petitioners that the lands shall be treated as Gairmajarua Aam till the return filed by the ex-land lord would be presented.

Taking into consideration the aforesaid, I dispose of this writ petition with a direction to the competent authority under the Act that if the petitioners file petition showing the lands standing in their names in record of rights and the order of competent authority granting compensation for acquisition of land of plot no.2613 of Khata no.354, in L.A. Case No. 15/60-61 the competent authority shall consider the documents submitted by the petitioners and pass reasoned order on the claim of the petitioners within three months from the date of such petition.

With this observation, this writ petition is disposed of.

(Prabhat Kumar Jha, J)

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