

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1623 of 1993

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Bihar State Housing Board

.... Petitioner/s

Versus

State & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SYED ARSHAD ALAM

For the Respondent/s : Mr. /MRS.MRIDULA MISHRA (GP6)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 08-02-2018

1. Heard both sides.
2. The Bihar State Housing Board has filed this writ petition to quash the order passed by Addl. District Judge, Gaya by which he has enhanced the compensation given by the petitioner earlier in L.A. Case No.61/83.
3. The learned counsel for the petitioner submits that the State of Bihar and the Collector acquired the land for the petitioner-Bihar State Housing Board. The petitioner paid compensation of the lands at the prevalent rate but the landlords received the compensation on protest and accordingly, the reference was made under Section 18 of the Land Acquisition Act. The learned Addl. District Judge vide order dated 16.11.1984 enhanced the compensation for acquisition of the land. The learned counsel for the Housing Board submits that the Land Acquisition Judge without hearing the Housing Board enhanced



the compensation. The learned counsel for the petitioner submits that the Housing Board for which the land was acquired is required to be heard by the Land Acquisition Judge before enhancement of compensation. The learned counsel for the petitioner placed his reliance in support of his contention on the Judgment of Hon'ble Apex Court in the case of *Krishi Upaj Mandi Samiti Vs. Ashok Mandal* reported in AIR 1991 SC 1320 in which it is held that the acquisition of land was not for the Government itself but for statutory authority and, therefore, it is incumbent upon the Court and also the High Court in Appeal to issue notice to the statutory authority before considering the claim of land owners for enhancement of compensation. In the present case, the learned Land Acquisition Judge did not issue any notice to the petitioner, Housing Board. Therefore, the matter be remitted to the Land Acquisition Judge to decide the amount of compensation after hearing the petitioner.

4. From perusal of the judgment of the Hon'ble Supreme Court in the case of *Krishi Upaj Mandi Samiti (Supra)*, it appears that if the land is acquired for any statutory authority and the reference was made for enhancement of compensation amount, the statutory authority is required to be heard but the record itself shows that no notice was issued to the Housing Board and the Housing Board was not heard before passing of the order of enhancement of compensation



to the landlords. Thus, I find that the order under impugned is illegal and not sustainable in the eye of law.

5. Accordingly, I set aside the order passed by Addl. District Judge, Gaya in L.A. Case No.61/83 and remit the case to the Land Acquisition Judge to decide the matter afresh in accordance with law after hearing the petitioner. Accordingly, this writ petition stands allowed.

(Prabhat Kumar Jha, J)

Sanjeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

