

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2601 of 1993

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Bihar State Electricity Board

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. VINAY KIRTI SINGH

For the Respondent/s : Mr. /MRS.MRIDULA MISHRA (GP6)
Mr. Dhananjay Kr. Dubey
Mr. Rajendra Kr. Giri

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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 dated 08.08.1985 (Annexure-1) passed by Addl. District Judge (Subordinate Judge), Bhagalpur in L.A. Case No.9 of 1981 by which the compensation amount for acquisition of land was enhanced.
3. The learned counsel for the petitioner submits that the State of Bihar and the Collector acquired the land for the petitioner-Bihar State Electricity 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 08.08.1985 enhanced the compensation for acquisition of the land. The learned counsel for the Electricity Board submits that the Land Acquisition Judge without hearing the Electricity Board enhanced the compensation. The learned counsel for the petitioner submits that the Electricity 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, Electricity 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 Electricity Board and the Electricity 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 dated 08.08.1985 (Annexure-1) 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	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

