

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14957 of 2017

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1. Jagarnath Prasad, Son of Late Basudeo Sah, Resident of Main Road, Nasriganj, P.O. + P.S.- Nasriganj, District- Rohtas (Sasaram).

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue & Land Reforms Department, Patna.
2. The District Land Acquisition Officer, Rohtas, Sasaram.
3. The District Magistrate, Rohtas at Sasaram.
4. The Deputy Collector, Land Reforms, Bikramganj, Rohtas at Sasaram.
5. The Sub-Divisional Officer, Bikramganj, District- Rohtas at Sasaram.
6. The Circle Officer, Nasriganj, District- Rohtas at Sasaram.
7. Mostt. Janki Devi Wife of late Basudeo Sah
8. Dudheshwar Prasad Son of late Basudeo Sah
9. Gopal Prasad Son of late Basudeo Sah
10. Pappu Nepal Prasad Son of late Basudeo Sah Respondent No.7 to 10 are Resident of Main Road, Nasriganj, Post & Police Station- Nasriganj, District- Rohtas (Sasaram).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Waliur Rahman, advocate

For the Respondent/s : Mr. Md.Khurshid Alam -AAG12

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 11-10-2018 Heard both sides.

The petitioner has filed this writ petition for a direction to the respondents to release the compensation amount after determination and apportionment of the share of all the legal heirs of deceased Raiyat, Basudeo Sah for the land of Khata No. 173, Plot No. 1157, area 0.5250 acres situated in Nasriganj, Sasaram.

The learned counsel for the petitioner submits that



Basudeo Sah, the recorded tenant, got two wives. Raghunath Prasad and Jagarnath Prasad were borne from first wife, Kailaso Devi, and three sons from second wife, Janki Kuer. A notification was issued for construction of bridge and Land Acquisition Case No. 2/3/2017-18 was initiated for acquisition of land including land of Khata No. 173, Plot No. 1157, area 0.5250 of Late Basudeo Sah but the petitioner got information that the compensation is to be paid only to the sons of Janki Kuer, second wife of Basudeo Sah. The petitioner filed petition before the Land Acquisition Officer on 18.08.2017 (Annexure-5) for apportionment of compensation amount to all the five sons but the same is still pending and no order has been passed.

The learned counsel for the State filed counter affidavit stating that petition of the petitioner has been disposed of on 12.10.2017 and the District Land Acquisition has directed to make payment of compensation to Dudheshwar Prasad, Gopal Prasad and Pappu Nepal Prasad, sons of Late Basudeo Sah born from second wife.

Having considered the submission of both sides, I find that land of Khata No. 173, Plot No. 1157, area 0.5250 situated in Nasariganj, Sasaram was standing in the name of Late Basudeo Sah. Admittedly, Basudeo Sah got two wives. From the



first wife Basudeo Sah got two sons, Raghunath Prasad, who died leaving behind five sons, and Jagarnath Sah, the petitioner. Basudeo Sah got three sons, Dudheshwar Prasad, Gopal Prasad and Pappu Nepal Prasad from second wife. On the petition of the petitioner the District Land Acquisition Officer called for report from the Circle Officer. The Circle Officer reported that acquired land was in possession of Janki Kuer, wife of Basudeo Sah, and Dudheshwar Prasad, Gopal Prasad and Pappu Nepal Prasad but no document showing partition of the property among sons of Basudeo Sah has been filed. Section 75 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the Act) says that when there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment. Section 76 of the Act says that when the amount of compensation has been settled, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the Authority constituted under the Act.



From perusal of Section 76 of the Act, it is crystal clear that the acquisition authority is not at all vested with power to decide the apportionment of compensation amount if any dispute arises between the legal heirs of recorded tenant. In this view of the fact, I find that the order as contained in Annexure-A to the counter affidavit is without jurisdiction and as such is not sustainable and the same is set aside.

Accordingly, I direct the District Land Acquisition Officer, Rohtas at Sasaram to refer the matter to the Authority constituted under the Act to decide the question of apportionment of the compensation amount among the legal heirs of recorded tenant, namely, Basudeo Sah.

With this direction, this writ petition is disposed of.

In the meantime, the compensation amount shall not be released in favour of any person till the disposal of reference by the competent authority under the Act.

(Prabhat Kumar Jha, J)

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