

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9348 of 2015

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Roshan Kumar, Son of Late Bhagwan Lal Sahu, resident of Mohalla-
Shimrahi Bazar, P.O.- Raghapur, P.S.- Raghapur, District- Supaul.

... .. Petitioner/s

Versus

1. The Union of India through Secretary N.H. Division Department, Govt. of India, New Delhi (N.H.9) through Project Director, Araria, N.H.A.I.
2. The Secretary, Union of India, N.H. Division Deptt., Govt. of India, New Delhi.
3. The State of Bihar
4. The Collector, Supaul
5. The District Land Acquisition Officer, Supaul
6. The Arbitrator-cum-Additional Collector, Supaul, District- Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mani Bhushan Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 07-12-2018

The petitioner by filing this writ petition seeks quashing of order dated 15.12.2014(Annexure-1) passed by District Land Acquisition Officer, Supaul by which the claim of the petitioner regarding payment of interest and other amount of compensation has been rejected on the ground that the petitioner has not produced any evidence.

The case of the petitioner is that the petitioner filed CWJC No.13245 of 2009 and this Court vide order dated 09.10.2009 disposed of the writ petition with a direction to the petitioner to file representation before the Collector/District Land Acquisition Officer, Supaul. The petitioner again filed



CWJC No.5382 of 2010 which was also disposed of vide order dated 01.04.2010 with a direction to the petitioner to approach the Arbitrator-cum-Additional Collector and raise the claim for grant of compensation before the Arbitrator(Annexure-2). Under Section 3(G)1 of the National Highway Authority Act, the petitioner approached the Arbitrator-cum-Additional Collector, Supaul by filing representation but no order was passed within three months. The petitioner filed MJC No.3659 of 2010 and thereafter the Arbitrator-cum-Additional Collector appeared before the Court with award dated 17.05.2011. Accordingly, contempt petition was disposed of with liberty to the petitioner to challenge, if aggrieved by the award dated 17.05.2011 in accordance with law but again the petitioner filed CWJC No.17199 of 2011 which was disposed of on 03.07.2014(Annexure-3). The petitioner appeared before the Land Acquisition Officer on 27.09.2014 in compliance of the order passed on 03.07.2014 in CWJC No.17199 of 2011. The petitioner was directed to produce evidence in support of his claim with regard to payment of interest, solatium and the nature of the land but the petitioner did not produce any evidence on any dates fixed in the case on 08.10.2014 to 27.11.2014 and consequently, the Land Acquisition Officer in



view of the direction given by this Court vide order dated 03.07.2014 passed in CWJC No.17199 of 2011 held that the compensation has already been paid with regard to the structures standing on the land before acquisition and no interest can be paid since the compensation amount was paid within the stipulated period as provided under the Act.

Counter-affidavit has been filed on behalf of respondent Nos.4 and 5, the Collector and District Land Acquisition Officer. Learned counsel for the respondents submits that the land of the petitioner was acquired under National Highway Act, 1956 but the petitioner being dissatisfied with the rate of compensation amount moved before this Court in CWJC No.55388 of 2010 which was disposed of on 01.04.2010 with a direction to the petitioner to move before the Arbitrator-cum-Additional Collector, Supaul and on such, Arbitration Case No.5 of 2010 was registered. The Arbitrator passed the award on 14.05.2011(Annexure-A) fixing the amount of compensation for the land acquired and also for residential house standing over the said plot of the petitioner to the tune of Rs.14,50,622/- and in compliance of the order of Arbitrator after deducting an amount of Rs.1,35,062/- in the head of Income Tax, the rest amount of Rs.13,15,560/- was paid to the



petitioner by cheque No.77532 on 27.10.2011 itself. The petitioner and his mother, Laxmi Devi again moved in this Court in CWJC No.17199 of 2011 and an interim order was passed by this Court to assess the amount of compensation even with regard to the land voluntarily sold by the petitioner and his mother in the name of President of India and the aforesaid case was finally disposed of on 03.07.2014 directing the Land Acquisition Officer to examine the case of the petitioner whether Raushan Kumar has been paid any compensation with respect to house acquired and the interest amount was paid. The Land Acquisition Officer in compliance of the order dated 03.07.2014 passed in CWJC No.17199 of 2011 examined the case of the petitioner and passed detailed order on 15.12.2014(Annexure-1). Respondents have further stated that from the date of gazette notification upto the date of Panchat, there is no provision of payment of interest but for the said period, there is provision for payment of additional compensation of 12% only over the cost of land and not upon the structures standing over it as per the provisions of Section 23(1)(A) of the Land Acquisition Act, 1894. The amount of compensation was paid to the petitioner and the interest at the rate of 9% was calculated from 20.10.2009 to 20.10.2010 over



the cost of the land and interest of 15% has been calculated over the cost of land from 21.10.2010 to 16.05.2011. Thereafter, 30% of the amount of solatium has also been calculated over the cost of the land including the cost of structures besides the transportation cost and other cost and the total amount of which comes to Rs.19,10,731/-. As per the order of Arbitrator, an amount of Rs.14,50,622/- was declared to be the total of compensation including the amount of Income Tax and the remaining compensation amount comes to Rs.4,60,109/-. After entire calculation, the total amount of compensation was calculated vide calculation chart(Annexure-B) to this counter-affidavit and a cheque of Rs.7,54,577/- was issued. An amount of Rs.6,97,456/- was paid to the petitioner after deducting the amount of Income Tax. The petitioner is not entitled to get any other amount for acquisition of his land.

The only question arises for consideration that “whether the order dated 15.12.2014 suffers from any error or illegality or the petitioner is entitled to get any amount as claimed by him?”

Learned counsel for the petitioner submits that petitioner is entitled to get the compensation at the commercial rate and the interest and solatium but from perusal of the order



dated 03.07.2014 passed by this Court in CWJC No.17199 of 2011, it appears that this Court after considering the award prepared by the Additional Collector and the amount paid to the petitioner directed the Land Acquisition officer only to verify whether the petitioner has got compensation with regard to structure and the interest on the amount of compensation. The Land Acquisition Officer in pursuance of the order dated 03.07.2014 issued notice to the petitioner on 21.08.2014 fixing 27.09.2014. The petitioner appeared before the Land Acquisition officer on 27.09.2014 and filed petition for payment of 15% interest from the date of gazette notification and till the date of payment which comes to 72 months. The petitioner is entitled to get solatium amount of 30% on the amount of structure already paid to him and the nature of land acquired is commercial and petitioner submitted rent receipts showing payment of rent at the commercial rate and, therefore, the petitioner is entitled to get compensation of the land acquired at the commercial rate. The Land Acquisition Officer directed the petitioner to produce evidence fixing the case on 08.10.2014 but the petitioner did not produce any evidence for his claim submitted before the Land Acquisition Officer on 27.09.2014. On 21.10.2014, 07.11.2014 and 27.11.2014, when the petitioner



failed to produce any evidence, the Land Acquisition Officer in view of the directions and the time frame given by this Court vide order dated 03.07.2014 passed in CWJC No.17199 of 2011 passed detailed order and rejected the petition of the petitioner stating that the petitioner and his brothers, mother received the entire amount of compensation with interest and solatium and also the amount of compensation for structure of the house standing on the acquired land.

On perusal of the order passed by the District Land Acquisition officer, I find no illegality and the petitioner could not be able to produce any evidence to get any further amount of compensation or interest in addition to the amount already paid to him, his mother or brothers. Having considered the facts aforesaid, I do not find any merit in this writ petition. Accordingly, this writ petition is dismissed.

(Prabhat Kumar Jha, J)

Saurabh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.01.2019
Transmission Date	

