

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16871 of 2014

1. Roshan Kumar
2. Pradeep Kumar
3. Anil Kumar
4. Lalan Kumar
5. Pramod Kumar, All sons of late Laxmi Devi
All residents of Mohalla Shimrahi Bazar, P.O. & P.S. Raghapur, District
Supaul.

... .. Petitioners

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, 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
7. The National Highways Authority of India through the Project Director, Purnea.

... .. Respondents

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 07-12-2018

The petitioners by filing this writ petition seek following relief:-

For direction to the respondents to pay compensation to the petitioners for acquiring land of 3.700 Decimals (0.015 Hectares) appertaining to Khata No.83, Khesra No.1025 at Mauza Simrahi Raghapur in the District of Supaul as well as building as per Section 24(2) of the Fair Compensation Act, 2013 or as per direction passed in C.W.J.C. No.17199/2011 vide order dated



07.01.2014 passed by this Hon'ble Court or to issue appropriate writ/writs, direction/directions as your lordships may deem fit and proper in the facts and circumstances of this case.

2. The case of the petitioners is that the land and building of the petitioners standing on Khesra No.1025, Khata No.83, measuring 0.015 Hectares situated in Mauza Simrahi Raghapur, District Supaul was acquired and Rs.2,53,068/- was paid to the petitioners as compensation on 18.08.2011. Some part of the land of the petitioners was left out which ought to have been acquired but the petitioners were compelled to execute the registered sale deed on 18.08.2011. The petitioners have earlier filed CWJC No.17199 of 2011 and this Court vide order dated 07.01.2014 (Annexure-1) directed the respondent-Collector, Supaul to inquire into the matter and also justify how the old, illiterate lady was misled and deprived of her rightful compensation and directed the NHAI to pay compensation within six months from the date of receipt of this order with interest thereon. The petitioners approached the before the Collector-cum-District Magistrate, Supaul along with the order dated 07.01.2014 passed in CWJC No.17199 of 2011 and after considering all facts, the land and the building was valued to Rs.8,26,000/- and the amount was distributed amongst all the brothers.



3. Learned counsel for the petitioners submits that the authority has wrongly stated that the rate of Rs.1,10,000/- is for commercial land but the petitioners were deprived of getting compensation of the land at commercial rate and other benefits like solatium, rehabilitation amount. The petitioners are entitled to get compensation in accordance with Section 24(2) of the Fair Compensation Act, 2013 as has also been held by the Hon'ble Supreme Court in Civil Appeal Nos.884 of 2014, 885 of 2014 and 886 of 2014.

4. Respondents No.4, 5 and 6 filed counter affidavit and the learned counsel for the respondents submits that 3.7 Decimals (0.015 Hectares) land of the petitioners was acquired as per Section 24(2) of the Fair Compensation Act, 2013 in pursuance of the order passed by the High Court in CWJC No.17199 of 2011. The notification of acquisition of land for construction of NH-57, Muzaffarpur to Purnea was issued on 19.10.1995. The acquisition process was completed under National Highway Act, 1956. Petitioner Laxmi Devi, now dead, and her son Roshan Kumar, who is petitioner in CWJC No.9348 of 2015, who were not agreeing on rate of land and, therefore, the matter was referred to Arbitrator pursuant to the order passed by the High Court in CWJC No.55388 of 2010 on 01.04.2010. Arbitration Case No.5 of 2010 was registered in which the order was passed on 14.05.2011



(Annexure-A) by the Arbitrator-cum-Additional Collector, Supaul. It was found that Khesra No.1025, Khata No.83, measuring 3.7 Decimals was not notified in the notification and, therefore, the parties had to enter into consent agreement with the authority of National Highway and thereafter the payment with respect to the said land will be made by the authority of the National Highway. Laxmi Devi sold her land of Khata No.83, Khesra No.1025, measuring 3.7 Decimals in the name of President, Government of India through sale deed dated 18.08.2011 on payment of consideration amount of Rs.2,53,068/- and the National Highway authority made payment but no amount was paid towards the structure standing on the land. The National Highway authority requested the District Land Acquisition Officer, Supaul to make payment of structure to Laxmi Devi vide Letter No.4880 dated 10.12.2012 and pursuant to that the compensation of amount was determined for the structure standing on the land of Khata No.83, Plot No.1025, measuring 3.7 Decimals to Rs.8,29,516/- and award was prepared by adding solatium and interest on 09.01.2013. The said amount was paid. The cheque of Rs.8,29,516/- was prepared in the name of Laxmi Devi but amount could not be paid on account of non-appearance of the authority of National Highway as the amount was not sanctioned. Later on being dissatisfied with the compensation amount with regard to the land sold by the petitioner



Laxmi Devi on consideration amount, Laxmi Devi and her son Roshan Kumar, petitioner of CWJC No.9348 of 2015, filed CWJC No.17199 of 2011 and interim order dated 07.01.2014 was passed directing the respondent-Collector to examine the matter. The District Magistrate, Supaul took up the matter on 24.01.2014 and during such proceeding Sri Amit Raushan, Deputy Manager, NHAI, Purnea and Assistant Registrar, Ganpatganj who duly authorized his Clerk, Sri Bindeshwari Rajak were heard and the District Magistrate, Supaul passed the order of compensation. CWJC No.17199 of 2011 was finally heard by a Bench presided over by Hon'ble Mr. Justice Shivaji Pandey and the same was disposed of on 03.07.2014 (Annexure-E) directing the respondent to pass reasoned order within six months. Again the matter was taken up on 21.08.2014 in pursuance of the order dated 03.07.2014, passed in CWJC No.17199 of 2011 and detailed order was passed on 15.12.2014 (Annexure-F) and Rs.3,29,670/- as an additional amount was sent to the petitioner through special messenger but the petitioners refused to receive the cheque, therefore, no amount is lying due against the petitioners. The cheque is still lying but the petitioners refused to receive the same.

5. Having considered the facts aforesaid and submissions of both sides, it appears that petitioner Laxmi Devi (now dead and substituted by her heirs) and her one of the sons, Roshan Kumar



earlier filed CWJC No.55388 of 2010 and in pursuance of the aforesaid order dated 01.04.2010, passed in CWJC No.55388 of 2010, Arbitrator was allowed and Arbitration Case No.5 of 2010 was registered in which the Arbitrator-cum-Additional Collector, Supaul passed award on 14.05.2011. The land of the petitioner bearing Plot No.1025, Khata No.83 was not notified in the notification for construction of National Highway-57 on the request of the petitioner Laxmi Devi, now deceased, and Roshan Kumar the petitioner of CWJC No.55388 of 2010. They registered sale deed in favour of President, Government of India on 18.08.2011 on consideration of Rs.2,53,068/- paid by the authority of National Highway. The compensation of the structure standing on the aforesaid land was also evaluated and award of Rs.28,09,516/- was prepared adding solatium and interest thereon but Laxmi Devi, now deceased, and her son filed CWJC No.17199 of 2011 and this Court vide interim order dated 07.01.2014 directed the Collector to consider the entire facts and assess the valuation in accordance with law. The Collector heard the parties on 14.01.2014 in pursuance of the order dated 07.01.2014 and on other dates and passed order amending the calculation chart for payment of compensation to the petitioners and on the basis of such chart, CWJC No.17199 of 2011 was finally disposed of vide order dated 03.07.2014 with a direction to examine the case of the petitioner



Roshan Kumar only with regard to the extent whether he has been paid any compensation with respect to the house acquired and the interest. The Collector again passed detailed order on 15.12.2014 in pursuance of the order dated 03.07.2014 by which CWJC No.17199 of 2011 has been finally disposed of and directed the petitioners to receive Rs.3,29,670/- but the petitioners did not receive the amount nor filed any petition against the order dated 15.12.2014 passed by the Collector. It appears that the petitioners have concealed material facts that they have earlier filed CWJC No.55388 of 2010 and compensation was assessed and paid to them. Petitioners filed this writ petition for a direction to the authority to make payment of compensation amount in pursuance of the order dated 07.01.2014 passed in CWJC No.17199 of 2011 but it appears that the authority in pursuance of order dated 07.01.2014 passed in CWJC No.17199 of 2011 heard the grievances of the petitioners and the calculation chart for payment of compensation was prepared on 03.02.2014/07.02.2014 on the basis of which CWJC No.17199 of 2011 was disposed of only with a direction to the extent to examine whether Roshan Kumar, one of the son of petitioner Laxmi Devi, now deceased, has been paid any compensation with regard to the house acquired and whether he has been paid interest. It further appears that in pursuance of the order dated 03.07.2014 passed in CWJC No.17199 of 2011, the



writ petition was finally disposed of and the District Magistrate, Supaul vide his order dated 15.12.2014 passed the order and issued cheque of Rs.3,29,670/-. Thus, the order of this Court has already been complied with and petitioners did not file any writ petition against the order dated 15.12.2014 passed by the competent authority in pursuance of the order dated 03.07.2014 passed in CWJC No.17199 of 2011. It appears that the petitioners have this writ petition for issuance of direction in pursuance of the interim order dated 07.01.2014, passed in CWJC No.17199 of 2011 but that writ petition was disposed of vide order dated 03.07.2014. When the authority passed the final order in pursuance of the order dated 07.01.2014, the interim order merges with the final order, therefore, I find that no direction can be issued for implementation of the interim order. By the final order, the Court found the compliance of the interim order and disposed of the writ petition.

6. Accordingly, I do not find any merit in this writ petition and the same is dismissed.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.01.2019
Transmission Date	NA

