

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14778 of 2016

=====

1. Sudhir Kumar Jha Son of Late Nageshwar Jha, resident of Village and Post Office Kakwara, Police Station Banka, District Banka.

.... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Railway, Government of India, New Delhi.
2. The General Manager, Eastern Railway, Kolkata, West Bengal.
3. The Divisional Railway Manager, Bhagalpur Division, Bhagalpur.
4. The Deputy Chief Engineer (Constructions), Eastern Railway, Bhagalpur.
5. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
6. The Additional Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
7. The Collector, District Banka.
8. The District Land Acquisition Officer, Banka.
9. The District Collector, Land Reforms, Banka.
10. The Circle Officer, Banka.
11. Anil Jha, son of Late Singheshwar Jha.
12. Sunil Jha, son of Late Singheshwar Jha.
13. Shanker Jha, son of Late Goverdhan Jha.
14. Sushil Kumar Jha, son of Late Ugra Mohan Jha.
15. Keshaw Kumar Jha, son of Late Ugra Mohan Jha, Respondent Nos. 12 to 16 all residents of village and Post Office Kakwara, Police Station Banka, District- Banka.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Kamal Nayan Chaubey Mr. Ashok Kumar Garg Mr. Ambuj Narayan Chaubey Ms. Ritu Priyadarshini, Adv.
For the Respondent/s	:	Mr. Rakesh Kumar Srivastava Ac to GP-15
For Railway	:	Mr. Anand Kumar

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 03-07-2018

Heard both sides.

The petitioners seek following reliefs:-

1. For quashing the order dated 26.11.2014 passed by



the District Land Acquisition Officer, Banka whereby the District Land Acquisition Officer, Banka has not considered the claim of the petitioner by holding that the acquired land is joint family property and paid the compensation to the respondent nos. 11 to 15 for the said land except some lands without any basis.

2. For commanding upon the respondent authorities to prepare the award in the name of the petitioner for compensation and pay the statutory compensation amount to the petitioner forthwith as per New Act with interest in accordance with the statutory provision and the notifications of the State Government in view of the voluntary acquisition of the petitioner's land for the purpose of construction of railway track from Deoghar to Sultanganj via Banka.

3. For directing the respondent authorities to prepare award in favour of the petitioner as per new Act, 2013 considering the present market value of the land and also recover the compensation amount from the respondent nos. 11 to 15 which was paid to them without any right in collusion with authority concerned.

The petitioners earlier moved this Court in



C.W.J.C. No.11093 of 2013 and this court vide order dated 21.07.2014 directed the Land Acquisition Officer to dispose of the representation of the petitioner on the following points:-

(i) whether the land of the petitioner has been acquired by the State Government for Railways and if it is so, whether the award has been prepared or any payment has been made to him?

(ii) whether the petitioner is entitled to the compensation of the said land in terms of Land Acquisition Act of 1898 or the compensation in terms of Right to air Compensation in Land Acquisition Rehabilitation and Settlement Act, 2013?

Learned counsel for the petitioner submits that the District Land Acquisition Officer vide order dated 26.11.2014 decided the matter but not in accordance with direction of this Court. The District Land Acquisition Officer, Banka has held that on the basis of the report of the C.O., D.C.L.R. and S.D.O., Banka the land was found in joint possession of Sri Sudhir Jha and others namely Anil Jha, Sunil Jha, Shankar Jha, Sushil Kumar Jha and Keshav Kumar Jha and Award was prepared of Rs.24,45567/-. Learned counsel for the petitioner submits that the Land



Acquisition Authority is not entitled to decide the question of settlement of the award to be paid to different persons.

I find from perusal of the order of the Land Acquisition Officer that Land Acquisition Officer has held that raiyati land of the petitioner and others have been acquired for the purpose of railway. It has been held that the land was recorded in the name of Nageshwar Jha S/o Late Govardhan Jha, who got the land through Kabuliyatnama although initially the lands of Khata No.194 and 196 were recorded as Gairmajarua Ghatwal and Wakast Malgujar. At the same time, the Land Acquisition Officer also found that the petitioner was not only in possession of the entire lands but petitioner and his family members are found in joint possession of the lands. Accordingly, the amount of compensation according to the area of possession by petitioner and others were distributed but second question with regard to whether the petitioner is entitled to get compensation according to the Land Acquisition Act, 1898 or New Act of 2013 has not been decided by Land Acquisition Officer.

In this view of the fact, I find that the Land Acquisition Officer in view of the direction of this court should have decided this matter also. It is also made clear that if any dispute with regard to apportionment of amount is raised, the Land



Acquisition Officer is bound to refer the matter to the Civil Court or the Tribunal constituted under the Act for deciding the question of distribution of compensation amount among the land holders.

Accordingly, the order dated 26.11.2014 as contained in Annexure-7 is set aside and the matter is remitted to the Land Acquisition Officer to decide the representation of the petitioner afresh in accordance with law and the direction given by this court vide order dated 21.07.2014 passed in C.W.J.C. No.11093/2013.

Accordingly, this writ petition is allowed.

(Prabhat Kumar Jha, J)

Amit/-

U			
---	--	--	--

