

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4237 of 2017

=====

1. Manju Devi, W/o Late Girdhari Poddar, Resident of Post Office Tola, Station Road, Bariyarpur, District- Munger, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna.
2. The Land Reform Commissioner-cum-Secretary, Bihar, Patna.
3. The Collector, Munger, Bihar.
4. The District Land Acquisition Officer, Munger.
5. The Union of India through The Secretary Railway Board, New Delhi.
6. The General Manager, Eastern Railway, Fairly Palace, Kolkata, West Bengal.
7. The Divisional Railway Manager, Maldah Division, Eastern Railway, Maldah Town, West Bengal.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mrs. Madhuri Lata, Advocate
For the Respondent/s : Md. Khurshid Alam, AAG-12

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 31-08-2018

Heard learned counsel for the parties.

There is no dispute that the land acquisition proceeding started under the Land Acquisition Act, 1894 in respect of the land and four storied building standing thereon of the petitioner. The petitioner wasnot satisfied with the valuation of the land and house decided by the competent authority. Therefore, the petitioner challenged the said matter in CWJC 14616 of 2010, vide order dated 03.09.2010 at Annexure-8. This Court directed Land Acquisition Officer not to dismantle the house until deciding the issue of valuation



of the land and house.

By order dated 26.11.2010 passed in the aforesaid writ application, vide Annexure-9, this Court directed the Collector, Munger, to refer the matter to the concerned Court within a period of one month. Thereafter, the Collector, Munger, referred the matter to the Court and the same was registered as L A Case No.1 of 2011, The Collector, Munger V. Manju Devi (the petitioner). The said land acquisition case was dismissed for default.

After dismissal, the petitioner filed a representation before the Collector, Munger, on 19.12.2016, vide Annexure-1, informing that in spite of repeated request the Collector, Munger, has neither taken any step for restoration of L.A. Case No.1 of 2011 nor has started fresh acquisition proceeding under the new Act, namely, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. On that petition, the Collector, Munger, has written a letter to the Presiding Officer, Land Acquisition, Rehabilitation and Resettlement Authority, Munger, to permit to deposit of the compensation amount under Section 77 of the New Act.

Contention of the petitioner is that there is no dispute that acquisition of land was not completed under the Old Act as neither compensation was paid nor the possession of land was taken over by



the respondents. Therefore, in view of the mandate of Section 24 of the New Act only remedy open for the respondent is to start fresh acquisition proceeding according to the procedure of the New Act.

Section 24 of the New Act reads as follows:

“24. Land acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases.- (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),-

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land



acquisition afresh in accordance with the provisions of this Act;

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

After going through the material on record and finding substance in the submission of the learned counsel for the petitioner, the respondent authorities are directed to start fresh acquisition proceeding as per requirement of Section 24 of the New Act, if so advised.

With the aforesaid observation, this application stands disposed of.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.09.2018
Transmission Date	05.09.2018

