

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4498 of 2017

1. Md. Sheikh Shamim,
2. Sheikh Amin, Both are Sons of Late Sheikh Bado, Resident of Mohalla- Pirpainti Bazar, P.S.- Pirpainti, District- Bhgalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate Cum Collector, Bhagalpur,
3. The District Land Acquisition Officer, Bhagalpur.
4. The Deputy Collector Land Reforms (D.C.L.R.), Kahalgaon, District- Bhagalpur.
5. The Circle Officer (Anchal Adhikari) Pirpainti, District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chandra Shekhar Sharma, Advocate
		Mr. Dharendra Nath Jha, Advocate
For the Respondent/s	:	Smt. Nutan Sahay-AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 04-09-2018

Heard the learned counsel for the parties.

2. This writ application has been preferred under Article 226 of the Constitution of India for issuance of writ in the nature of certiorari to quash the orders dated 14.09.2015 and 20.02.2015 contained in *Annexures 6 and 9* passed by respondent No.3, the District Land Acquisition Officer, Bhagalpur, whereby the District Land Acquisition Officer, Bhagalpur has decided apportionment/entitlement of the compensation amount among different persons, including the petitioners, whereas claim of the petitioners was that the acquired land was of the petitioners, which they had acquired from their father by oral *Hibbanama*.



3. Certain lands were acquired by the respondent Authorities under the provisions of Land Acquisition Act, 1894 in *Village-Harinkol, Circle- Pirpainti* in the District of *Bhagalpur*. The petitioners claim the said land as their paternal property on the basis of *Hibbanama*, vide *Annexure 1*. The petitioners filed a representation before the Land Acquisition Officer, vide *Annexure 8* that acquired land was exclusive property of the petitioners. The same was decided by the impugned order dated 14.09.2015, vide *Annexure 9*, whereby the Land Acquisition Officer has decided apportionment/entitlement of the compensation amount, wherein the petitioners were also to get a part of the compensation, though the petitioners claimed entire compensation.

4. Learned counsel for the petitioners submits that such dispute could not have been decided by the Land Acquisition Officer in view of the provisions of Section 30 of Land Acquisition Act, 1894, which reads as follows:-

Dispute as to apportionment- When the amount of compensation has been settled under section 11, 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 decision of the Court.



5. Apparently, the Land Acquisition Officer was required to refer the matter to the “court” as defined in Section 2(e) of the Act which is *the Principal Civil Court of original jurisdiction in the District*.
6. There is no need for counter affidavit on behalf of the respondents for the reason that only question of law is involved in this writ application.
7. The District Land Acquisition Officer, Bhagalpur has acted against the aforesaid mandate of law. Hence, impugned orders are hereby ***quashed*** and the matter is remitted back to the District Land Acquisition Officer, Bhagalpur to follow the mandate of Section 30 of the Land Acquisition Act, 1894 and refer the matter to the court preferably within one month.

Accordingly, this writ application stands allowed.

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

