

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10519 of 2018

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1. Nirmal Kumar Singh, S/o Late Jagdish Singh Vihwal, resident of Village-Tuniyahi, P.S.- Madhepura, District- Madhepura, presently residing at Bodh Bihar Colony, Phase- 2, Bhagwatnagar, Patna- 26, P.S.- Agamkuan, Patna.

.... Petitioner/s

Versus

1. The Union of India through the Secretary of Transport & Road Construction Ministry, New Delhi.
2. The Chairman, National Highway Authority of India, Dwarika, New Delhi.
3. The Project Manager, NH 107 office of Tilrath, Begusarai (Bihar).
4. The State of Bihar through Principal Secretary, Department of Land Reforms & Revenue, Bihar, Patna.
5. The District Collector, Madhepura, District- Madhepura.
6. The Land Acquisition Officer cum Competent Authority NH 107, Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Singh
For the Respondent/s : Mr. Rishi Raj Sinha -SC19
For the N.H.A.I. : Dr. Anand Kumar

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 06-07-2018 Heard the learned counsel for the petitioner, learned counsel for the State as well as learned counsel for the N.H.A.I.

The petitioner has filed this writ petition to quash the letter dated 12.04.2018(Annexure 3 series) directing the petitioner to receive the amount of compensation fixed by the competent authority within sixty days and hand over the possession of the land failing which the authority shall take possession of the land by use of force.

The sole question arises for determination in this case



whether the amount of compensation has not been determined in accordance with the procedure laid down under Section 3-G of N.H.A.I. Act?

The learned counsel for the petitioner submits that notification under Section 3-D has already been issued but the procedure as laid down for determination of amount payable as compensation as contained in Section 3-G has not been followed. No objection has been invited from the petitioner with regard to the amount of compensation payable to the petitioner for the land acquired.

Mr. Rishi Raj Sinha, learned counsel appearing on behalf of the State submits that to cut short the matter, let the petitioner appear before the competent authority and file objection under Section 3-G(3). Thereafter, the authority before determining the compensation shall take into consideration the objection of the land owner.

Having considered the facts and submission of both sides, I find that this proposition of law is not in dispute that Section 3-A to 3-E is with regard to acquisition of land, disposal of objection filed by the landlord and taking possession of the land. The another part starts from Section 3-G which says about the determination of amount payable as compensation.

Section 3-G reads as follows:



3-G. Determination of amount payable as compensation-

(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent. of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under section 3A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.



From perusal of sub-section (3) of Section 3-G, it appears that the provisions mandates the competent authority under the Act that before proceeding to determine, the amount of compensation under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two daily newspapers one of which in a vernacular language inviting objections/claims of all persons interested in the land to get compensation.

It appears that the authority competent did not invite objection from the landlord about the amount of compensation to be paid and the authority on the basis of the material before him determined the compensation. Therefore, I find that the authority has not followed the procedure as contained in Section 3G of the Act.

Accordingly, I direct the petitioner to file the objection-cum-claim along with this order within two weeks from the date of receipt of the order and upon such the competent authority-cum-District Land Acquisition Officer is directed to dispose of the claim/objection of the petitioner and fix compensation in accordance with law within two months.

Accordingly, this writ petition stands disposed of.

(Prabhat Kumar Jha, J)

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