

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.273 of 2019

1. Prabhakar Jha, aged about 43 years, Male, Son of Late Kuldip Jha, resident of -Ward no. 19, Madhubani, P.S.-Madhubani, District-Madhubani
2. Yugal Kishore Jha, aged about 72 years, Male, Son of Late Punit Jha, resident of -Brahman Tola, Padma Goth Tol, Ward No.11, Paduma, P.O.-Paduma, P.S.-Ladania, District-Madhubani
3. Raja Mohan Jha, aged about 60 years, Male, Son of Late Gangadhar Jha, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
4. Krishna Murari Jha, aged about 40 years, Male, Son of Late Sri Mohan Jha, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
5. Vishnu Mohan Jha, aged about 65 years, Male, Son of Late Gangadhar Jha, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
6. Kamlesh Kumar Jha, aged about 55 years, Male, Son of Vishwanath Jha, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
7. Ugramohan Jha, aged about 48 years, Male, Son of Late Gangadhar Jha, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
8. Mithilesh Kumar Jha, aged about 53 years, Male, Son of Late Vishwanath Jha, Resident of Village Paduma, P.O. Pduma, P.S. Ladania, District Madhubani
9. Chandra Mohan Jha, aged about 73 years, Male, Son of Late Gangadhar Jha, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
10. Ravindra Kumar Jha, aged about 48 years, Male, Son of Late Harimohan Jha, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
11. Ranjan Raju, aged about 49 years, Male, Son of Late Jagdish Narayan Yadav, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
12. Sheela devi, aged about 78 years, Female, Wife of Late Harilal Yadav, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
13. Ram Pari Devi, aged about 73 years, Female, Wife of Late Jagdish Narayan Yadav, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
14. Raj Kumar Jha, aged about 74 years, Male, Son of Late Vishwanath Jha, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
15. Sumitra Sah, aged about 41 years, Female, Wife of Kamal Sah, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
16. Shivam Saurav, aged about 26 years, Male, Son of Vinay Kumar Hira, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
17. Jaybhadra Mishra, aged about 85 years, Male, Late Turant Mishra, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani
18. Prabodh Mishra, aged about 63 years, Male, Son of Jaybhadra Mishra, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani



19. Ganesh Jha, aged about 66 years, Male, Son of Abhinandan Jha, Resident of Village-Paduma, P.O.-Pduma, P.S.-Ladania, District-Madhubani

... .. Petitioner/s

Versus

1. Union of India through the Secretary, Ministry of Transport and Highways, Transport Bhawan, 1 Parliament Street, New Delhi (110001).
2. The Secretary, Ministry of Transport and Highways, Transport Bhawan, 1 Parliament Street, New Delhi (110001).
3. National Highway Authority of India through its Chairman, G5 & G6, Sector 10, Dwarka, New Delhi (110075).
4. The Chairman, National Highway Authority of India, G5 & G6, Sector 10, Dwarka, New Delhi (110075)
5. The Chief Engineer, National Highway (North) Road Construction Department, Government of Bihar.
6. The State of Bihar through the District Magistrate, Madhubani
7. The District Magistrate, Madhubani, Bihar.
8. The Land Acquisition Officer, Madhubani.

... .. Respondent/s

Appearance :

For the Petitioners	:	Mr. Kumar Kaushik, Advocate
For Res. Nos.1 & 2	:	Mr. Anshay Bahadur Mathur, C.G.C.
For the State	:	Mr. Rakesh Kumar Srivastava, A.C. to G.P.15

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 03-12-2019 Heard the parties.

2. The petitioners seek direction to the respondents authority particularly respondents no.7 and 8 to decide the quantum of compensation for acquisition of land of the petitioners and further for directing the respondents to make payment of compensation in lieu of acquisition of the land of the petitioners initiated vide notification dated 27.09.2012.

3. The only question arises for consideration whether the petitioners are entitled to get compensation for acquisition of



their lands for construction, widening of NH-104?

4. Relevant facts bereft of unnecessary details are that by notification dated 16.07.2012, the Land Acquisition Authority issued notification showing the intention to acquire the land of the petitioners at the requisition of National Highway Authority for the purpose of building, widening, fourlaning etc. of N.H-104 (Sitamarhi-Jaynagar, Section and Jaynagar-Narhiya) falling within the district of Madhubani. No follow up action was taken and the Land Acquisition Authority again issued another notification on 29.09.2014 under sub-section (1) of Section 3A of the National Highways Act, 1956 detailing the lands of the petitioners and others for acquisition for the purpose of construction, widening, fourlaning of N.H.-104. The petitioners having received notice filed objection and thereafter notification under Section 3D of the Act was published but amount of compensation was not calculated nor award was prepared. When Yugal Kishore Jha, petitioner no.2 and Krishna Murari Jha, petitioner no.4 sought information with regard to non-payment of compensation amount, the Land Acquisition Officer, Madhubani by letter as contained in Memo No.1411, dated 30.12.2016 informed the petitioners that the Executive Engineer-cum-P.I.U. Head, N.H.-104, N.H. Division, Sitamarhi by letter no.296, dated 15.07.2016 informed him to stop payment of compensation to the petitioners, resident of village



Padma as the lands of the petitioners situated in village Padma, sought to be acquired, had already been acquired earlier but no paper with regard to acquisition of the lands was given to the petitioners even after request of the petitioners and the papers were not supplied on the pretext that all the relevant papers were burnt to ashes.

5. All the respondents filed counter affidavit. Respondents No.1 to 4, Ministry of Transport and Highways filed counter affidavit and in sum and substance stated that the respondents no.1 to 4 have already deposited the amount incurred on acquisition of lands and construction of road with the competent authority. The respondents, Engineer of the N.H. Division, Sitamarhi-cum-P.I.U. Head, District Magistrate and Land Acquisition Authority filed counter affidavits and supplementary counter affidavits along with the show cause. A notification was published in Bihar Gazette on April, 24, 1963 annexed as Annexure-B showing that for acquisition of the lands by C.S. Plots situated in village Padma was sought to be acquired and notices were issued to the land owners. The respondent, District Magistrate, Madhubani submitted that since the lands of the petitioners were acquired, they are not entitled to get compensation afresh for the same lands acquired in the year 1963 but when their attention was drawn to show the completion of the



acquisition proceedings issued in the year 1963, the respondents even after adjournments could not be able to furnish any documents save and except certain letters of different authorities showing their inability that the records are not available. From the gazette notification issued in the year 1963, it of course appears that the same was issued for acquisition of the lands and C.S. Plots of the lands are mentioned. The respondents also filed the comparative charts in order to show that from the same C.S. Plots, R.S. Plots, which are required to be acquired in the present land acquisition case, are carved out but by mere initiation of land acquisition proceeding without showing any paper with regard to appearance of the land owners, consideration of their objection and preparation of the award under Section 11(A) of the Bihar Land Acquisition Act, 1894 and payment of compensation to the land owners, it cannot be held that the land of the petitioners were acquired in the year 1963. Section 11(A) of the Act says that the Collector after initiation of the land acquisition proceeding must prepare the award within two years failing which the entire procedure shall be deemed to be lapsed. The respondents have not brought on record any document to show the preparation of award after appearance of the land owners and payment of compensation to the land owners before taking possession of the lands from the land owners. From the notification for acquisition of the lands



issued in the year 2012 and the subsequent notification later on issued in the year 2014, this much is clear that the record of rights remained in the names of the land owners during the revisional survey and they were found in possession over the lands. The respondents have not been able to show either payment of compensation to the land owners in pursuance of the initiation of land acquisition in the year 1963 and onwards. If the award is not brought on record, the proceeding of land acquisition initiated in the year 1963, if not prepared within two years from the date of initiation, shall be deemed to have lapsed under Section 11(A) of the Act. Even Section 24 of the New Act envisages that initiation of proceeding before coming into effect of the New Act of 2013 and if after award, the compensation is not paid to the land owners and possession was not taken, the compensation has to be given to the land owners in view of the provisions of the New Act, therefore, the contention of the respondents that the petitioners are not entitled to get compensation cannot be accepted on mere excuse without any substance and document with regard to preparation of award after following the procedure of law and payment of compensation to the land owners, the payment of compensation for the acquisition of the lands in pursuance of the notification issued in the year 2014 cannot be withheld as has been withheld since 2015, therefore, I direct the respondents, District



Magistrate, Madhubani and the Land Acquisition Authority who have already taken possession over the lands of the petitioners in pursuance of the notification for acquisition of lands issued in the year 2014 calculate the amount of compensation and prepare the award after considering the objections of the petitioners and pay the compensation for acquisition of lands to the petitioners within two months with statutory interest admissible under the Act subject to furnishing indemnity bonds by the land owners to return the money, if it is found that the compensation in pursuance of the notification for acquisition of lands initiated in the year 1963 was paid.

6. Accordingly, this writ petition is allowed with the aforesaid directions.

(Prabhat Kumar Jha, J)

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