

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4497 of 2019

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1. Shri Kant Tiwary and ors Son of Late Bhrigunath Tiwary Resident of Village- Tiwaripur, P.S.- Buxar, Industrial Area, District- Buxar (Bihar).
 2. Ram Ashish Tiwary Son of Late Bhrigunath Tiwary Resident of Village- Tiwaripur, P.S.- Buxar, Industrial Area, District- Buxar (Bihar).
 3. Most. Dewanti Devi Wife of Late Janardan Tiwary Resident of Village- Tiwaripur, P.S.- Buxar, Industrial Area, District- Buxar (Bihar).

... .. Petitioner/s

Versus

1. THE UNION OF INDIA through the Manager, National Highway Authority of India, New Delhi.
2. The State of Bihar through the Principal Secretary, Department of Revenue, Government of Bihar, Patna.
3. The District Magistrate, Buxar District- Buxar (Bihar).
4. The Additional Collector, Buxar District- Buxar (Bihar).
5. The Competent Authority-cum- District Land Acquisition Officer Buxar.
6. Vijay Kumar Tiwary Son of Late Paras Nath Tiwary Resident of Village- Tiwaripur, P.S. Buxar, Industrial Area, District- Buxar (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Dhanendra Chaubey
For the Respondent/s	:	Mr.Raj Kishore Rai (GP-18)
For NHAI	:	Mr. S.N.Pathak, SC

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 07-03-2019 The petitioners have filed this writ application seeking quashing of an order dated 19.12.2018, passed by the competent authority-cum-Land Acquisition Officer, Buxar, within the meaning of Section 3G(5) of the National Highways Act, 1956, whereby he has declined to accede to the petitioners' claim of compensation against acquisition of a portion of land for widening of National Highway on the ground that dispute



between the petitioner and a private respondent No.6 is pending before Civil Court of competent jurisdiction.

The petitioners had earlier approached this Court by filing writ application giving rise to CWJC No. 4897 of 2017, which came to be disposed of by order dated 22.02.2018 with an observation that since the matter relates to apportionment of compensation amount among legal heirs of Bhrigunath Tiwary, the Land Acquisition Officer should dispose it of on the basis of available records. It is in that background that the impugned order has been passed by the competent authority-cum-District Land Acquisition Officer, Buxar. It is evident from the impugned order that there is a partition suit pending registered as Partition Suit No 454 of 2016 before the Civil Court at Buxar. Noticing the pendency of the said case the competent authority has, while passing the order, observed that the petitioners' claim could not be considered without decision of the competent Court in the partition suit.

Mr. Dharmendra Choubey, learned counsel appearing on behalf of the petitioners has heavily relied on Praptra 17 which is chak Khatiyar prepared under the Land Acquisition Act to submit that the land acquired by the respondents in the year 2016 fell in the share of petitioners' father and, therefore,



there is no dispute.

He at the same time does not dispute the fact that private respondent no.6 is the own nephew of petitioner Nos. 1 and 2.

From the order of this Court dated 22.02.2018, it is evident that the Court also found that the question of apportionment of compensation amount was involved among legal heirs of Bhirgunath Tiwary and other persons. The question of apportionment could not have been decided even by the competent authority-cum- District Land Acquisition Officer, in view of the pendency of the partition suit. The parties can be entitled to compensate on the basis of their respective shares.

No relief can be granted in the present proceeding.

This application is accordingly, dismissed.

Mr. Choubey, has also submitted that the order of the competent authority has so far not been transmitted to the competent Court where the matter is pending despite such observation made in the impugned order. The Court directs the competent authority to proceed in this regard, forthwith, in accordance with prescribed procedure.

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(Chakradhari Sharan Singh, J)

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