

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13872 of 2019

1. Mostt. Shashi Kala Devi Wife of Late Ram Deo Choudhary R/o Village-Ranipur, P.S. Sadar, District-Darbhangha
2. Ram Chandra Choudhary S/o Late Rameshwar Chaudhary R/o Village-Ranipur, P.S. Sadar, District-Darbhangha

... .. Petitioners

Versus

1. The State of Bihar
2. The Principal Secretary Department of Revenue and Land Reforms (Land Acquisition), Government of Bihar, Patna
3. The District Magistrate Darbhanga
4. The District Land Acquisition Officer Darbhanga
5. The Union of India through the Secretary, Ministry of Surface Transport and National Highway, Government of India, New Delhi
6. The Secretary Ministry of Surface Transport and National Highway, Government of India, New Delhi
7. The Chairman National Highway Authority of India, Plot No. G-5 and 6, Sector-10, Dwarka, New Delhi-110075
8. The Chief General Manager-cum-Regional Officer National Highway Authority of India, D-63, First Floor, Srikrishnapuri, Patna-800001
9. The Project Director Office of National Highway Authority of India, C/o Shri S.N. Mishra, Professor Colony, Dighee West Darbhanga-846004

... .. Respondents

Appearance :

For the Petitioners	:	Mr.Sanjay Parasmani Mr.Maruth Nath Roy
For the Respondent State:		Mr. W.A.Khan, AC to SC-25
For the NHAI	:	Mr. S.N.Pathak, SC Mr. Sunil Kumar-II

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 11-07-2019 This writ application has been filed seeking direction to the respondent authorities to make payment of due amount of compensation to them in lieu of acquisition of their land by the National Highway Authority of India (NHAI). The petitioners



are claiming compensation in terms of the provisions contained in Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Before I advert to the pleadings on record and submissions made on behalf of the parties, I must take note of an order of this Court, dated 21.06.2013, passed in C.W.J.C. No. 2559 of 2013, which was filed by these petitioners. A bare reading of the said order would indicate that the petitioners were claiming compensation for acquisition of land under the Bihar Land Acquisition, Resettlement and Rehabilitation Policy, 2007. This is not being disputed that the said writ petition, i.e., C.W.J.C. No. 2559 of 2013, also related to the same land in respect of which the present writ application has been filed. The Court disposed of the said writ application by an order, dated 21.06.2013, relevant portion of which reads thus: -

“The only grievance of the petitioner is that the compensation should be paid to the petitioners for the lands acquired by the National Highway Authority of India in terms of the Bihar Land Acquisition Resettlement and Rehabilitation Policy, 2007.

Today in CWJC No. 2300/2013 (Md. Shakil Ahmad Vs. The Union of India & ors.) this Court has held in view of the submissions made in the said case that the compensation for such land should be made in terms of the State Government Policy with respect to consent policy as is also admitted but in a contradictory manner in the counter affidavit of the respondents.

At this stage it is submitted by learned counsel



for the NHAI that the petitioners have not approached the authorities for the execution of the sale deed in favour of the President of India in order to become entitled to compensation. The petitioners are directed to do so.

In the aforesaid circumstances, the writ application is disposed of in terms of the directions of this Court with respect to right of compensation in CWJC No. 2300/2013.

So far as the nature of the land is concerned, the petitioners may approach the six-member Committee for the said purpose.”

The order, dated 21.06.2013, passed in C.W.J.C. No. 2300 of 2013 (*Md. Shakil Ahmad vs. The Union of India and Others*), is also there on record by way of annexure. For the purpose of appreciating the claim of the petitioners, relevant portion of the order, dated 21.06.2013, passed in C.W.J.C. No. 2300 of 2013, is being taken note of and are being reproduced hereinbelow :

“In my view, once the lands of the petitioner are taken and it is asserted in para-8 of the counter affidavit that such missing plots had fallen under the Consent Policy of NHAI and the payment of the same has to be made in terms of the Consent Policy, then the notification aforesaid of the State Government clearly state that there is no variation in the principles of payment of compensation with respect to any acquisition made for any purpose whatsoever.

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At this stage it is submitted by learned counsel for the NHAI that the petitioner has not approached the



authorities for the execution of the sale deed in favour of the President of India in order to become entitled to compensation. The petitioner is directed to do so.”

This is not in dispute that the petitioners did not approach the authorities for execution of sale deeds. The petitioners were asked by the NHAI, through letter dated 23.03.2015, to execute the sale deed for the purpose of payment of the amount of compensation. The petitioners, instead of complying with the order of this Court, dated 21.06.2013, passed in C.W.J.C. No. 2559 of 2013, have approached this Court seeking direction, as has been noted at the very outset.

It is evident from the above that there has already been an adjudication on the petitioners' claim for grant of compensation against acquisition of the land in question. The land has been acquired under the Bihar Land Acquisition, Resettlement and Rehabilitation Policy, 2007, which had required the land owners to execute sale deeds against acquisition of land under the said Policy. The petitioners were directed by this Court to execute sale deed so as to become entitled to compensation, which they appear to have failed to do.

Learned counsel appearing on behalf of the petitioners has submitted that since after passing of the order of this Court in C.W.J.C. No. 2559 of 2013, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, has come into effect and, therefore, the



petitioners are entitled for compensation accordingly. This submission cannot be accepted for the simple reason that there had been definite adjudication by this Court that the petitioners were entitled for compensation under the Bihar Land Acquisition, Resettlement and Rehabilitation Policy, 2007, of the State Government. There was direction to the petitioners to execute sale deed, which they apparently failed to do. In such circumstance, the relief, which the petitioners are seeking, cannot be granted.

It goes without saying that the observations made in the present order shall not take away the petitioners' right to claim compensation in accordance with the order passed by this Court, dated 21.06.2013, in C.W.J.C. No. 2559 of 2013.

This writ application is disposed of with the above observations.

(Chakradhari Sharan Singh, J)

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