

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13558 of 2016

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1. Naresh Chaudhury and Ors son of Late Narayan Chaudhury null
 2. Suresh Chaudhury son of Late Narayan Chaudhary null
 3. Mahesh Chaudhury son of Late Narayan Chaudhury null
 4. Nago Chaudhury @ Nageshwar Chaudhury son of Late Narayan Chaudhury
 5. Gopal Chaudhury son of Late Narayan Chaudhury
 6. Gunjan Chaudhury son of Late Narayan Chaudhury All are the resident of Village- Ghorghat, P.S. Bariyarpur, District- Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
3. The Director, Land Acquisition, Govt. of Bihar, Patna.
4. The Commissioner cum Secretary, Public Works Department, NH Division, Bihar, Patna.
5. The Land Acquisition Officer, Munger.
6. The Superintending Engineer, P.W.D., National Highway Division, Munger.
7. The Executive Engineer, National Highway Division, P.W.D., Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar
		Mr. Narendra Kumar Singh
For the Respondent/s	:	Mr.Asif Kalim, AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 24-01-2019

This application has been filed seeking direction to the respondent authorities to pay compensation for the land and house acquired for the construction of approach road of the high level bridge situated at N.H 80, having description of Mouza Nos. 102 and 103 corresponding to Kahata No.14. It is the case of the petitioners that the authorities have prepared award in respect of Keshra No.103 only, ignoring acquisition of Keshra No. 102 which



belongs to the petitioners. The petitioners are, accordingly, seeking a direction to pay adequate compensation at the rate on the basis of which similarly situated lands of other adjacent Mouza. It is the case of the petitioners that they had not accepted the award so prepared and had filed a representation before the Land Acquisition Officer, Munger, who is the Collector under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013(hereinafter referred to as 'the Act'). The said representation has been brought on record by way of Annexure-5 to the writ application. It also transpires that the petitioners had approached the Land Acquisition and Rehabilitation and Resettlement Authority (LARA) established under Section 51 of the Act raising objections in respect of the inappropriate award prepared against acquisition of their lands.

2. A separate counter affidavits have been filed on behalf of Respondent Nos. 4,6, 7 and Respondent No.5, who is the Land Acquisition Officer. It appears that the petitioners' objections before the LARA has been rejected by an order dated 15.06.2017 which has been brought on record by way of Annexure-J to the counter affidavit filed on behalf of respondent No.5. What transpires from the said order dated 15.06.2017, is that the objections of the petitioners have been rejected mainly



on the ground that instead of making an application before the Collector under the Act for reference to LARA as contemplated under Section 64 of the Act, the petitioners directly filed their objections before LARA, which was not maintainable. It is evident that the order dated 15.06.2017 does not deal with the merit of the petitioners' objections. The said order dated 15.06.2017 has, as the same time, been not challenged by the petitioners by seeking amendment in the writ application.

3. Learned counsel appearing on behalf of the petitioners has submitted that the petitioners are poor persons and are virtually illiterate. They, it seems, failed to appreciate in correct perspective the requirement of making an application before the competent authority under Section 64 of the Act and for procedural defect their claim on merit should not be allowed to be rejected.

4. Before I proceed to deal with the scope of Section 64 of the Act in the background of above noted facts, I must take note of the fact that the petitioners' averment in paragraph 10 of the writ application that they had filed their objections before the Land Acquisition Officer has not been specifically denied.



5. Section 64 of the Act contemplates that any person interested, who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the LARA, when there is objection in respect of the measurement of the land, the amount of the compensation, the person to whom the amount is payable or the apportionment of the compensation among the persons interested etc. First proviso to sub-Section (1) of Section 64 of the Act requires the Collector to make reference within a period of thirty days from the date of receipt of application and make a reference to the appropriate authority. In the event, the Collector fails to make such reference within the period so specified, the application may apply to the LARA, requesting it to direct the Collector to make the reference to it within a period of thirty days. Sub-section (2) of Section 64 requires the objector to state the grounds on which objection to the award is being taken. First proviso to sub-section (2), however, puts a bar to the effect that such application should be made within six weeks from the date of the Collector's award, if the person making it was present or represented before the Collector at the time when he made his award. The proviso further requires that in other cases, such application should be



filed within six weeks of the receipt of the notice from the Collector under Section 21 of the Act or within six months from the date of the Collector's award, whichever period would first expire. The Collector has been given power to condone the delay and entertain an application even after the expiry of the said period to the extent of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso. Whether the petitioners had filed an objection, as has been asserted in paragraph 10 of the writ application, will have to be examined by the Collector under the Act. Though the application does not mention the provision of law under which the said application was filed, on reading of the same, it is evident that it was an application as contemplated under Section 64 of the Act before the Collector. If the petitioners had made such application, there would have been no occasion for the LARA to reject the petitioners' application on the ground that he had not filed any application before the Collector on avoidable technicality.

6. In the facts and circumstances of the case, I dispose of this application with a direction to the Deputy Collector, Land Reforms, Munger to examine whether the petitioners had in fact filed their objections by making an



application, a copy of which has been brought on record by way of Annexure-5 to this writ application. If the Collector finds that such application was filed, he shall take steps to make a reference in accordance with Section 65 of the Act. Once reference is made by the Collector, the LARA will be required to consider the case of the petitioners on merit for payment of fair compensation under the Act.

7. This writ application was filed on 16.08.2016 whereas the award was made on 17.05.2016. This case, thus, remained pending in this Court from 16.08.2016 till date. The act of the petitioners in pursuing remedy before this Court under writ jurisdiction by making this application is evidently *bona fide*. It is, therefore, observed that even if the Collector under the Act finds that there was no application filed by the petitioners as contemplated under Section 64 of the Act, the Collector shall allow the petitioners to make an application afresh along with a copy of the present order. If such application is made by these petitioners, the Collector shall proceed accordingly by condoning the delay in making application by excluding the period for which this application remained pending before this Court.

8. It is made clear that the petitioners shall be at



liberty to make an application afresh under Section 64 of the Act along with a copy of the present order without going into the controversy whether they had earlier filed any application before the Collector or not.

9. It goes without saying that once the petition is filed under Section 64 of the Act in terms of the present order, the authorities shall proceed promptly, in accordance with the provisions under the Act.

10. This application stands disposed of.

(Chakradhari Sharan Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02.02.2019
Transmission Date	N/A

