

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16268 of 2016

1. Bhushan Kumar Son of Krishnandan Yadav, resident of Village- Oudhey, Police Station- Shekhpora, District- Shekhpora.
2. Inderdeo Yadav, Son of Late Darogi Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
3. Sita Saran Prasad, Son of Ram Kishun Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
4. Nikhil Kumar, Son of Late Rajendra Prasad Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
5. Suresh Yadadv, son of Late Prayag Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
6. Sunil Kumar, son of Late Parsuram Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
7. Bhaso Devi, W/o Late Rajendra Prasad Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
8. Tanik Yadav, Son of Late Bisheshwar Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
9. Ram Naresh Yadav, Son of Late Babulal Yadav resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
10. Sihanta Devi, Wife of Jawahar Prasad Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
11. Ram Chandra Prasad, Son of Late Munsu Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
12. Yadu Nandan Yadav, Son of late Ram Bhajju Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
13. Kanti Devi Wife of Late Bhola Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
14. Rajo Yadav, sonof Late Baldeo Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.
15. Ramasharya Yadav, Son of Late Jageshwar Yadav, resident of Village-Oudhey, Police Station- Shekhpora, District- Shekhpora.

... .. Petitioners

Versus

1. The State of Bihar
2. The Collector-cum- District Magistrate, Shekhpora.
3. The Additional Collector, Shekhpora.
4. The District Land Acquisition Officer, Shekhpora.
5. The Circle Officer, Barbigaha, Shekhpora.
6. The Union of India through the General Manager, East- Central Railway Danapur.



7. The Divisional Railway Manager, East- Central Railway Danapur.

... .. Respondent/s

Appearance :

For the Petitioners :	Mr. Nirmal Kumar, Advocate
For the Respondent State:	Mr. Subhash Chandra Yadav-GP-15
For the Respondent Railway:	Mr. S.D.Sanjay, Additional Solicitor General
	Mr. Siddhartha Prasad, Advocate
For the Respondent RVNL :	Mr. S.B.K. Mangalam, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 10-04-2019

Though this writ application was listed for hearing along with C.W.J.C. No. 3860 of 2015 by an order dated 18.09.2018, since it has been noticed after hearing learned counsel for the parties and perusal of pleadings and other materials on record that the facts of this case are substantially different and issues involved also are not common, this application is being disposed of by the present judgment and order. The said C.W.J.C. No. 3860 of 2015 has been disposed of by me by separate judgment and order, passed today.

2. I have heard learned counsel Mr. Nirmal Kumar, learned counsel appearing on behalf of the petitioners and Mr. S. D. Sanjay, learned Additional Solicitor General, appearing on behalf of the respondent Railway, assisted by Mr. Siddhartha Prasad. Mr. S.B.K. Mangalam, learned counsel appearing on behalf of the respondent Rail Vikas Nigam Limited and Mr.



Subhash Chandra Yadav, learned counsel appearing on behalf of the respondent State have also been heard at length.

3. This writ application has been filed on 24.09.2016 by 15 petitioners seeking following relief in paragraph 1 :-

“That this is an application for issuance of a writ in the nature of certiorari to quash the notices by which the land of the petitioner has been acquired without any prior notice to the petitioners under the Bihar Land Acquisition Act, 1956, and further issuance of writ in the nature of mandamus or other any appropriate writ or writs which petitioner is entitled and not to take any further step for taking possession over the land in question, when no process of the award has been done by the Respondents and the said matter is still subjudice and status-quo order has been passed and hence the Respondent may be directed to not to take any step in matter save and except accordance with the law.”

4. Paragraph 3 of the writ application contains following grounds in support of the relief :-

“(i) Whether the land of the petitioners have been acquired under the provision of Bihar Land Acquisition Act?

(ii) Whether any notice was issued to the petitioner at any stage for acquisition of the land?

(iii) Whether without following the provisions of Land Acquisition Act the said Acquisition is valid under the law?

(iv) Whether without any process and payment of award the said acquisition is valid and the Respondents are entitled to take possession over the land in question without payment of the award?



(v) Whether the Respondents are entitled to take possession of the land when the Hon'ble High Court has already been granted status quo of the acquisition of the land of the same village.”

5. Paragraphs 4 to 17 disclose the description of lands of respective petitioners, which, according to them, have been acquired. It has been vaguely stated in the writ application that the lands of the petitioners are fertile and that the family members of the petitioners are dependents. Copies of the notices issued to the petitioners on various dates under Section 12(2) of the Land Acquisition Act, 1894 (hereinafter referred to as ‘the L.A. Act, 1894’), have been brought on record by way of annexures, which show that the awards in their case were made and they were asked to receive the amount of compensation. These notices for receiving the amount of compensation were issued on 01.06.2016.

6. It has been stated in the writ application that compensation is being paid as per the rate provided in 2007 and the possession of the land has not been taken by the State respondents. Reference has been made to the interim order of this Court passed in C.W.J.C. No. 3860 of 2015 and L.P.A. No. 1270 of 2016 to make out their case that since the parties have been directed to maintain status-quo, the respondents should not proceed with the process of acquisition.



7. The petitioners have also filed I.A. No. 1229 of 2019 reiterating that the land of the petitioners are still in their possession and the respondents are trying to evict them with the help of police force for the purpose of starting the construction work. It has further been stated that the petitioners (Yadu Nandan Yadav and Munni Devi) have filed an application under Section 64(2)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (hereinafter referred to as 'the L.A. Act, 2013') for proper determination of amount of compensation, but no decision has been taken thereof. The said application has been brought on record by way of Annexure-5 to the interlocutory application. The petitioners have prayed to stay the further proceedings of acquisition of their lands.

8. Rail Vikas Nigam Limited (RVNL), a construction organization of the Indian Railway, has filed an application for intervention, being I.A. No. 9328 of 2018. It has been stated in the said application that the work of construction of new railway track between Neura to Sheikhpura via Daniyawan-Biharsharif-Barbigha, has been divided into four parts, for the purpose of convenience in construction. Which has been entrusted to RVNL. It has been stated in paragraph 4 of the said application that lands



of these petitioners were acquired for Barbigha-Sheikhpura part, for which construction of railway track is complete, which is now awaiting its inauguration, for the part, from Sheikhpura to Sarsa Jamalpur.

9. Another interlocutory application, being I.A. No. 4 of 2019, has been filed on behalf of the RVNL for vacating the interim order dated 18.09.2018 passed by this Court, whereby the parties were directed to maintain status-quo. It has been sated in the said interlocutory application filed on 15.01.2019 that the petitioners have mislead this Court by making false statements throughout and pleading that their case is identical with the case of the petitioners of C.W.J.C. No. 3860 of 2015. It has been asserted in the the application (I.A. No. 4 of 2019) that it is false to say that possession has not been taken so far by the respondents over the land in question. It has, rather, been stated that the railway track is ready for its inauguration, which has been constructed over the lands of the writ petitioners, with their consent. It has been stated in paragraph 3 that the land of the petitioners was acquired before 2013 and was handed over to RVNL on 06.04.2013 and RVNL took possession over the lands on 08.04.2013. A certificate of possession of land has been brought on record by way of Annexure-I-3. It has further been stated that out of 14 petitioners,



petitioner No. 2 and 13 have already received the compensation amount as would be evident from the letter of the District Land Acquisition Officer, Sheikhpura. It has further been stated that whereas the petitioners are claiming that their lands have been acquired without any prior notice and, therefore, the respondents should be restrained from taking possession over the land, it would be evident from the applications filed on behalf of petitioners No. 3, 4, 5, 7, 8, 9, 12 and 14 and brother of petitioner No.14 that they have raised objection before the Presiding Officer, Munger, for adjudication on the question of amount of compensation. It has been reiterated that the construction of railway track is on the verge of completion and almost ready for being inaugurated and that the petitioners have obtained interim order from this Court by misleading this Court .

10. Though I.A. No. 4 of 2019, making the averments, as noted above, was filed on 05.01.2019, after serving a copy on learned counsel appearing on behalf of the petitioners, none of the averments made therein has been controverted. The averments made in I.A. No. 4 of 2019 are enough to show that the petitioners filed their writ application concealing material facts, which have been brought on record on behalf of the RVNL disclosing that the petitioners were pursuing their remedy under Section 77(2) of the



L.A. Act, 1894. The assertion that the respondents have taken possession over the lands of the petitioners has also not been disputed by filing any reply. The statement made in I.A. No. 4 of 2019, thus, stand admitted applying the doctrine of *non traverse*.

11. It has been rightly pleaded on behalf of RVNL that the petitioners have obtained an order of status quo on 18.09.2018 by misleading this Court claiming parity of their case with the case of the petitioners of C.W.J.C. No. 3860 of 2015.

12. This Court, exercising discretionary writ jurisdiction, under Article 226 of the Constitution of India, is entitled to see the conduct of the parties so as to enable it to adjudge equities (see : ***Lajpat Rai Mehta vs. Government of Punjab***, reported in (2009) 3 SCC 260. This is well settled principle that the Court, exercising such discretionary jurisdiction, is not required to entertain a claim, if the conduct of the appellant has not been fair. This view has been reiterated by the Supreme Court in various judgments, to wit, (2008) 15 SCC 577 (***C.K. Prahalada and Ors. Vs. State of Karnataka and Ors.***), (2007) 7 SCC 434 (***Tanna and Modi vs. Commissioner of Income Tax, Mumbail XXV and Ors.***), (2010) 4 SCC 728 (***Oswal Fats and Oils Limited vs. Additional Commissioner (Administration), Bareilly Division, Bareilly and Ors.***) and (2012) 6 SCC 430 (***A.***



***Shanmugam vs, Ariya Kshatriya Rajakula Vamsathu Madalaya
Nanhavana Paripalanai Sangam repreted by its President and
Ors.).***

13. The Court strongly deprecates the conduct of the petitioners, which dis-entitles them to any relief from this Court under equitable writ jurisdiction.

14. Further, I have referred to their pleadings also in my present judgment, which have been found to be completely vague and as a matter of fact do not make out any case for this Court to interfere.

15. This writ application is accordingly dismissed.

16. However, there shall be no order as to cost.

17. All Interlocutory Applications stand disposed of.

18. Interim order stands vacated.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	12.04.2019
Transmission Date	N/A

