

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17673 of 2016

1. Nirash Rai S/o Late Chhatrai Rai
2. Ram Ekwal Rai S/o Late Ramashish Rai
3. Suresh Rai, S/o Rai Raj Nandan Rai Petitioner No.-1, 2 and 3 Resident of Village- Bathnaha, Nathu Tola, P.S.- Bathnaha, Distt.- Sitamarhi.
4. Krishna Kumar Mahan S/o Sri Rajendra Prasad Singh Resident of Village- Nunahi, P.S.- Parihar, Distt.- Sitamarhi.
5. Binod Kumar Yadav S/o Late Jai Lal Rai Petitioner Nos. 6 to 10 Resident of Village- Bathnaha, Nathu Tola, P.S.- Bathnaha, Distt.- Sitamarhi.
6. Sri Shashidhar Pathak S/o Late Ramakant Pathak.
7. Ram Pratap Rai, S/o Late Raj Banshi Rai.
8. Rajesh Rai, S/o Late Ram Kalyan Rai
9. Pramod Rai, S/o Sri Premlal Rai.
10. Manoj Kumar S/o Sri Premlal Rai
11. Bhikhari Rai S/o Keshwar Rai. Vill.- Mohanpur, P.S. Distt.- Sitamarhi.
12. Ranjit Kumar S/o Ram Prit Rai, Vill.- Mohanpur, P.S. Distt.- Sitamarhi.
13. Bhuneshwar Rai S/o Bachhu Rai At- Bahera, P.S. Bathnaha, Distt.- Sitamarhi.
14. Laxmi Rai, S/o Sri Firangi Rai, Vill.- Khairbi, P.S. Majorganj, Distt.- Sitamarhi.
15. Nagendra Rai S/o Late Ram Narayan Rai. Resident of Village- Bathnaha, Nathu Tola, P.S. Bathnaha, Distt.- Sitamarhi.
16. Shyam Deo Mukhiya S/o Banai Mukhia, Vill.- Bhusulwa, Bathnaha, Nathu Tola, P.S. Bathnaha.
17. Kishori Sah S/o Late Sahdeo Sah Vill.- Bhusulwa, Bathnaha, Nathu Tola, P.S.- Bathnaha.

... .. Petitioner/s

Versus

1. The Union Of India through I.G. SHO, Muzaffarpur/Purnia (SSB)
2. The Principal Secretary through Home Department, Bihar, Patna.
3. IG SHQ, Muzaffarpur/ Purnia, Patna.
4. The DIG SHQ, Muzaffarpur/Purnia.
5. The Assistant Engineer, SHQ SSB, Muzaffarpur, Bihar.
6. The Commandant 51st BN, Muzaffarpur, Bihar.
7. The Collector, Sitamarhi.
8. The District Land Acquisition Officer, Sitamarhi.
9. The Block Development Officer, Bathnaha, Distt. Sitamarhi.
10. The Circle Officer, Bathnaha, Distt.- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Devendra Kumar
For the Union of India		Mr. S.D.Sanjay (Addl.S.G.)
		Mr. Kumar Priya Ranjan (CGC)
For the State	:	Mr.Raj Kishore Roy- GP-18

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH



ORAL ORDER

8 04-02-2019 Heard learned counsel for the parties.

This writ application has been filed by the petitioners, seeking a direction to the respondents to remove encroachment from their private *raiyati* lands admeasuring about 12 ½ acre, situated at Bathnaha Kothi under Bathnaha Block in the district of Sitamarhi. It is their grievance that the respondents have taken over their private lands forcibly, without their consent and without proceeding for acquisition of their lands, in accordance with law.

Counter affidavits have been filed on behalf of the respondent-State of Bihar as well as the Union of India.

It appears from the pleadings on record that the said lands are required for the purpose of establishing Sashastra Seema Bal (SSB) Camp of 51st Battalion SSB, Sitamarhi-II (Bihar).

It is the case of the Union of India that 'no objection certificates' from the land owners, in some of the cases, have been obtained

In the third supplementary counter affidavit, filed on behalf of respondent no.6, it has been stated that a preliminary notification contemplated under Section 19 (i) of the Right to Fair Compensation and Transparency in Land Acquisition,



Rehabilitation and Resettlement Act, 2013(hereinafter to be referred to as 'the Act'), has been issued on 29.09.2017/ 29.12.2017(sic) and the process of the land acquisition is already on. It has further been stated that the Union of India has already paid a sum of Rs. 27,67,49,600.00, which is a revised amount, to the Land Acquisition Officer to compensate the landholders against the acquisition of their lands.

Learned counsel for the petitioners has submitted that the petitioners have filed their objection before the District Land Acquisition Officer, Sitamarhi in response to the said notification dated 29.09.2017 on 30.11.2017, which has been brought on record by way of Annexure-5 series to a rejoinder filed on their behalf to the counter affidavit of the respondents.

Learned counsel for the petitioners has submitted that the only anxiety which the petitioners have is that they are duly compensated against the acquisition of their lands in strict compliance of the statutory provisions under the Act. He has submitted that most of the petitioners have not accepted the award.

In my view, the petitioners have remedy under Section 64 of the Act, invoking which the petitioners can make application(s) to the Collector under the Act, requiring him to



refer the matter for determination of the Authority under the Act. *Proviso* to sub-section (1) of Section 64 requires the Collector to make reference to the appropriate Authority under the Act within a period of 30 days from the date of receipt of the application. It is only in case where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, requesting the Authority to direct the Collector to make the reference to the Authority within a period of 30 days. There is a procedure prescribed under Section 64(2) of the Act for making application, which includes that the application must state the grounds on which the objection to the award is taken. *Proviso* to sub-section (2) of Section 64 requires that if the person making an application under section 64 of the Act was present or represented before the Collector at the time when he made his award, such application must be made within six weeks from the Collector's award and, in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire. Second *proviso* to sub-section (2) of Section 64 enables the Collector to entertain an application even after the expiry of the said period, within a further period of one year, if he is



satisfied that there is sufficient cause for not filing it within the period specified in the first *proviso*.

In view of the nature of the grievance which the petitioners raised in the present writ application and the fact that the matter has remained pending before this Court, it is directed that if the petitioners make their application(s) within four weeks from today, the Collector shall be obliged to entertain their application(s), invoking the second *proviso* to sub-section (2) of Section 64 of the Act.

This writ application stands disposed of accordingly.

(Chakradhari Sharan Singh, J)

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