

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6493 of 2017

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Alok Ranjan, Son of Sri Devendra Tiwary, resident of P &T Colony Road,
near Durgasthan MO+ PS- Mithanpura, PO-Ramna, Anchal- Mushari,
District-Muzaffarpur, Pin-842002

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Revenue and Land Reform Department, Old Secretariat, Beily Road, Patna-800015
2. Minister, revenue and Land Reform Department, Old Secretariat, Belly Road, Patna-800015
3. Director, Land Acquisition, Revenue and Land Reform Department, Old Secretariat, Baily Road, Patna
4. Collector, Muzaffarpur
5. District Land Acquisition Officer, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Alok Ranjan, In Person
For the Respondent/s : Mr.Raj Kishore Roy-GP-18

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 10-04-2019

I have heard the petitioner, in person and the learned counsel appearing on behalf of the respondents.

2. This writ application has been filed seeking direction to the respondents to initiate a fresh acquisition proceeding after issuance of a fresh preliminary notification under Section 11 of the Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as ‘the Act of 2013’) in respect of the land which has been acquired under Bihar Land Acquisition Act, 1894(hereinafter referred to as ‘the



Act of 1894') in the year 1979. The petitioner asserts that an acquisition proceeding was initiated under Land Acquisition case No. 1/1978-79 and the award No. 105 was prepared in favour of land owners, namely, Janardan Tiwary, Mohan Tiwary, Munna Tiwary, Kishore Tiwary, 'Binda Tiwary', Chandeshwar Tiwary and Uma Shankar Tiwary. He is relying on a Genealogical Table, which has been brought on record by way of Annexure-3, to make out his case that he is a grandson of Binda Tiwari. There is no description given in the writ application as to when was the land acquired and possession thereof was taken. There is vague statement in paragraphs 9 and 10 of the writ application that the petitioner learnt about acquisition of land and started enquiry thereafter. It is his case that upon enquiry, he learnt that Land Acquisition Officer has not prepared any award and had simply made a roll or index of compensation amount on the Form-15. According to him, the award which was made in Form-15, then cannot be treated as a valid award. It has also been stated that after declaration of compensation amount a conflict has arisen among the awardees, in respect of apportionment of the compensation amount and to whom the same or any part thereof was payable. It has been also asserted that the Collector was bound to refer the dispute to the



learned court but the Collector sat over the matter and let the land losers suffer their plight. It has also been stated that the predecessors-in-interest of the petitioner were lay men and were not aware about their legal rights and, therefore, they could not move any application before the Land Acquisition Officer. It is the case of the petitioner that the award which was prepared by the Collector, then cannot be said to be a valid award and since the Government failed to make an award within two years of declaration under Section 6 of the Act of 1894, the title over the land remained with the owner and by virtue of Section 11-A of the Land Acquisition Act, 1894, the entire acquisition proceeding stood lapsed. With these background facts, the petitioner is seeking relief as has been noticed above.

3. A counter affidavit has been filed wherein it has been stated that award No. 105 against acquisition of land in question was prepared in the names of Janardan Tiwary, Mohan Tiwary, Munna Tiwary, Kishori Tiwary, Binda Tiwary, Chanereshwar Tiwary and Uma Shankar Tiwary. They were asked to receive the compensation amount but they did not turn up to receive the amount.

4. A supplementary counter affidavit has been filed stating therein that in respect of award No. 105, there was



certain objection raised and, therefore, the amount, it appears could not be paid.

5. A rejoinder to the counter affidavit has been filed by the petitioner and responding to the plea that the land owners of award No. 105, reliance has been placed on a Supreme Court's decision in case of **Aligarh Development Authority Vs. Megh Singh and ors (AIR 2016 SC 2912)**. It has also been stated that since the respondents have accepted that no payment has been made to the awardees and that Collector was bound to disburse the compensation amount under Section 31 of the Act of 1894.

6. Relying on the statements made in rejoinder affidavit, Mr. Alok Ranjan, the petitioner in person, referring to Section 31 of the Act of 1894 has submitted that since the amount of compensation was not deposited in Court, the whole acquisition proceeding should be treated to have lapsed. He has also argued that the award prepared by the Collector being not in strict compliance of Section 11 of the Act of 1894, cannot be said to be an award under the Act. He has then relied on paragraphs 64 and 65 of the Bihar Land Acquisition Manual, which provides the form of award and the manner in which the Collector is required by Section 11 to make an award in all cases



whether the claimants attend the enquiry or not. Relying on a Supreme Court's decision in case of **Delhi Development Authority Vs. Sukhbir Singh and Ors.** (AIR 2016 SC 4275), he has argued that only after a due award is prepared and the amount is paid, the Collector can take possession of land and only thereafter the land can be said to have vested in the State under Section 16 of the Act free from all encumbrances. According to him, in view of Section 34 of the Act of 1894 where such compensation is neither paid nor deposited, interest is payable at the rate of 9 per cent per annum for one year and 15 per cent per annum thereafter. Reliance has been placed on a Supreme Court's decision in case of **New Riviera Cooperative Housing Society Vs. Special Land Acquisition Officer** reported in (1996) 1 SCC 731.

7. I have perused the original documents of acquisition in question. It appears from the records that the acquisition proceeding had started in the year 1978-79 and the all land owners were paid the amount of compensation in the year 1979 itself on the basis of award so prepared. The amount payable to the petitioner's grandfather and his co-sharers was deposited by the Collector on 20.01.1981, which is evident. There is no definite pleading on record explaining the circumstance in



which the grandfather of the petitioner and others did not receive the amount. At no point of time, in nearly three decades any objection was ever raised against regularity or otherwise of the acquisition proceeding. Grandfather of the petitioner in whose favour the award was made did not raise any objection ever nor his father. This is not in dispute that the Bihar Industrial Developmental Authority for which the land was acquired has taken possession decades ago. Grandfather of the petitioner had three brothers as per the Genealogical Table. Neither he nor his father Dasrath Tiwary have raised any objection over preparation of award. After nearly three decades of acquisition, the petitioner had directly approached this Court raising his grievance as noted above, which in my opinion, does not appear to be *bona fide*. Except vague statement that the landholders were lay man and, therefore, they could not raise any claim does not at all convince this Court for the purpose of grant of relief, which the petitioner is seeking. The objection which are being taken now need not be gone into by this Court. There was admittedly no objection raised by the ancestors of the petitioner against acquisition or the amount of compensation. Objection, if any, was in respect of apportionment as evident. The amount of compensation determined for acquisition of land



was never questioned.

8. Section 18 of the Act of 1894 permits a person to make an application to the Collector, requiring him to refer the matter for determination of the Court. There is no material to indicate that the grandfather of the petitioner ever required the Collector to refer the matter to the Court as contemplated under Section 18 of the Act of 1894. Most of the land owners had accepted the award. Materials on record are enough to indicate that because of family dispute over their respective share in the compensation amount was the reason why they did not receive the amount.

9. The Supreme Court's decision relied on, on behalf of the petitioner, have no application, in the facts and circumstances of the present case.

10. In view of the above noted facts, I do not find any merit in this application, which is, in my opinion, frivolous.

11. This application is, accordingly, dismissed.

12. Let a copy of this order be sent to the petitioner in person by the Registry through speed post, forthwith.

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(Chakradhari Sharan Singh, J)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.04.2019
Transmission Date	N/A

