

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5921 of 2015

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1. Kunti Devi @ Sakunti Devi @ Heeramani Devi and Ors. W/o Rajendra Prasad Singh,
 2. Rajendra Prasad Singh S/o Late Chanar Singh null
 3. Bijay Singh S/o Late Chandar Singh null
 4. Sri Parasuram Singh S/o Late Chandar Singh All R/o Vilage- Kadokhari, Anchal- Nabinagar, P.S.- Nabinagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Collector, Aurangabad.
3. The Land Acquisition Officer, Aurangabad.
4. The Circle Officer, Nabinagar.
5. Udai Singh S/o Late Chandar Singh R/o Kadokhari, P.S.- Nabinagar, Anchal Nabinagar, District o Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ravi Shankar Sahay
For the Respondent/s : Mr.Ajay Kumar Sharma

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 11-02-2019 Twice the State-respondents were directed to file counter affidavit by orders dated 09.10.2017 and 18.12.2017. Till date, however, no counter affidavit has been filed. This Court strongly deprecates the conduct of the Collector, Aurangabad for failing to file counter affidavit, despite repeated orders of this Court. As a matter of fact, the counter affidavit ought to have been filed without waiting for any order from this Court after having received notice of this writ application in 2015 itself.

2. Non-filing of the counter affidavit, in such



circumstance, amounts to refusal to file counter affidavit in a judicial proceeding deliberately to impede the adjudication process, which, in my opinion, constitutes a misconduct.

3. However, without waiting for the counter affidavit, considering the nature of the grievance which the petitioners has raised, this writ application is being disposed of, based on pleadings on record.

4. It is the petitioners' case that they have not been paid the amount of compensation consequent upon acquisition of their lands and the amount has been paid to respondent no.5, instead, who is full brother of petitioner Nos. 2 to 4. The petitioners are said to have approached the District Land Acquisition Officer, Aurangabad claiming their amount of compensation consequent upon acquisition. It is submitted that the petitioners have approached the Collector, in this regard.

5. Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(hereinafter referred to as 'the Act') lays down a well structured detailed procedure for reference to the authority under the Act for the purpose of (i) determination of amount of compensation (ii) the person to whom it is payable (iii) the rights of Rehabilitation and Resettlement under



Chapters V and VI of the Act and (iv) the apportionment of the compensation among the persons interested, in case any person has not accepted the award. Once an application is made, the Collector has statutory obligation to refer the same to the authority within the time stipulated therein.

6. In case the Collector does not make a reference, second proviso to Section 64 (1) of the Act requires the applicant to apply to the authority requesting it to direct the Collector to make the reference within a period of thirty days.

7. In the background of the provisions under Section 64 of the Act, this application is disposed of with a liberty to the petitioners to approach either the Collector or the authority under Section 64 of the Act. If they do so, the Court expects that the authorities will promptly deal with the petitioners' case and take decision, in accordance with law.

8. This application stands disposed of.

9. Let a copy of this order be sent to the Chief Secretary, Bihar.

(Chakradhari Sharan Singh, J)

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