

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.554 of 2018

In
Civil Writ Jurisdiction Case No.14430 of 2014

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1. Pun Pun Nahar Pariyojana Kisan Sangharsh Samiti Masaurhi through its Secretary Shri Arvind Kumar Singh
 2. Arvind Kumar Singh, aged about 68 years S/o Late Ram Lakhan Singh Resident of Village Sarbadahi, P.S. Masaurhi, District Patna, Secretary Pun Pun Nahar Priyojana Kisan Sangharsh Samiti, Masaurhi.

... .. Appellant/s

Versus

1. The State Of Bihar through the Commissioner-cum-Secretary, Department f Revenue and Land Reforms, Government of Biha, Patna.
2. The Secretary, Water Resources Dept. Government of Bihar, Patna.
3. The Collector, Patna.
4. The Special Land Acquisition Officer, Flood Protection Scheme, Patna.
5. Dharmasheela Devi W/o Sri Uday Kumar Singh Resident of Village Shahabad, P.S. Masaurhi, District Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sanjeev Kumar Mishra, Advocate Ms. Neena Gupta, Advocate Ms. Priya, Advocate
For the Respondent/s	:	Ms. Nutan Sahay, A.C. to A.A.G.-12

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 18-06-2019 The grievance of the appellant is that the learned Single Judge without appreciating the correct position of law in terms of the Right to Fair Compensation And Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the ‘2013 Act’), has issued based on facts which are incorrect and also to an authority who does not have any jurisdiction in the matter to do so.



For this, learned counsel for the appellant has invited the attention of the Court to Section 24(2) of 2013 Act as well as other provisions, coupled with the decisions on the point, to urge that, so far as the appellant Nos.2 and 3 are concerned, they being the individual tenure holders, are entitled to set up their case even if some other tenure holders have received the compensation. It is urged that the calculation made by the learned Single Judge that majority of the beneficiaries have either got the compensation or not received the compensation would not be relevant keeping in view the individual cases of the appellants. It is urged that the appellants' cases deserve to be considered in the light of Section 24(2) of the 2013 Act which provides for lapse of the proceedings inasmuch as in the present case neither physical possession has been taken over nor the compensation has been paid or even deposited as determined under the award.

Admittedly, the notification for acquisition under Section 4 and Section 6 of the Land Acquisition Act, 1894 was undertaken in respect of the land in dispute and an award was rendered in the year 2011. However, payment insofar as the appellants are concerned, was not made and, consequently, after the arrival and enforcement of the 2013 Act, the claim of the



appellants is that all the previous proceedings would lapse and a fresh exercise will have to be undertaken to determine the compensation. It is, therefore, urged that the learned Single Judge could not have issued a direction to the Principal Secretary or the other respondents to take a decision in the light of the letter dated 26.2.2014 issued by the Principal Secretary.

To the contrary, the entire exercise of fresh acquisition has to be undertaken.

A counter affidavit has been filed on behalf of the State of Bihar contending that the appellants would be governed by the provisions that were applicable and, therefore, the direction of the learned Single Judge to calculate the amount as per Section 24 is correct.

The case of the appellants is that the physical possession has not yet been taken over and, therefore, once the physical possession has not been taken over and the compensation has not been paid, then in that event, there is no occasion for issuing a direction for calculation of compensation under Section 24 of the Act.

The learned Single Judge, in our opinion, does not appear to have gone into these questions and has arrived at a conclusion on the basis of the facts stated in the counter



affidavit that compensation payment has been made, may be not to a majority, but at the same time has issued a direction for calculating the compensation amount in terms of Section 24. This could not have been done without deciding the preliminary issue relating to the claim of the petitioner in terms of Section 24(2) of the 2013 Act. Accordingly, the impugned judgement cannot be sustained.

The judgement dated 14th of September, 2017 is set aside. The matter is remitted back to the learned Single Judge for decision afresh in accordance with law after taking into account all the relevant provisions as well as the current status of the proceedings in relation to the issue involved before this Court.

The appeal is accordingly allowed. The writ petition shall stand restored to its original number and shall now be listed before the appropriate Bench in the next cause list.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

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