

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14408 of 2014

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1. Sunita Devi and Ors W/o Kuar Vijay Pal Singh Resident of Dadari Dhanraj, P.O. N.H. Bengra, P.S. Kothiya, District Samastipur.
 2. Ranjit Poddar S/o Late Deo Nandan Poddar Resident of Village Bharo Khara Poddar Tola, Ward No. 13, P.O. Tajpur, Block Tajpur, District Samastipur.
 3. Suresh Sah S/o Late Subelal Sah Resident of Village and Post Gauspur Sarsauna, P.S. N.H. Bengra, District Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The District Collector, Samastipur..
4. The District Land Acquisition Officer, Samastipur..
5. The Circle Officer, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	None
For the Respondent/s	:	Mr.Ajit Kumar Sharma, AC to AG
For NHA	:	Mr. S.N. Pathak, SC

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

6 09-08-2019 Today also there is no representation on behalf of the petitioners. The writ petition was earlier dismissed for default noticing repeated absence on behalf of the petitioners.

2. A counter affidavit has already been filed on behalf of the State of Bihar, which is there on record.

3. In such circumstance, I am not inclined to adjourn the matter and I consider it appropriate to dispose it of on the basis of the materials available on record.



4. The petitioners have sought for the following relief(s) :-

“(i) To determine the compensation and prepare the Award on account of land acquired of petitioners under the provisions of Land Acquisition Act as presently applicable.

(ii) To declare that Land Acquisition proceeding has lapsed as Award has not been prepared within 2 years from the date of Notification.

(iii) To declare that there were no grounds for invoking urgency Clause under the land Acquisition proceeding.”

5. It is their case that no enquiry under Section 11 of the Land Acquisition Act, 1894 (hereinafter referred to as ‘the Act’) was made and, therefore, the entire land acquisition proceeding has lapsed under Section 11A of the Act. It further transpires that the petitioners had received notice under Section 12(2) of the Act to receive 80% of the award on 03.10.2013 indicating therein that the award was prepared on 20.06.2013 under Section 11 of the Act.

6. It is the petitioners’ case that since no enquiry was done under Section 11 of the Act, there would have been no question of preparation of award on 20.06.2013. It is the further case of the petitioners that valuation of the price of the land so acquired has not been properly done.



7. In the counter affidavit, it has been stated that since the land was urgently required for public purpose of construction of road between Bhaktiarpur to Tajpur connecting proposed Ganga Bridge and, therefore, notification under Section 4 of the Act was published in the Gazette on 13.10.2011 and declaration under Section 6 of the Act was published in the District Gazette on 18.10.2011. It has also been stated that the petitioners have claimed compensation treating the land to be commercial in nature, which was dismissed because no commercial/shop was found near the land of the petitioners acquired, under the land acquisition proceeding. It has also been stated that the petitioners have already received 80% of the amount of compensation and possession of the land has already been delivered to the Deputy General Manager (Technical), Bihar State Road Transport Development Corporation on 05.10.2013. It is the plea taken in the counter affidavit that the Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act of 2013') shall have no application in the facts and circumstances of the case.

8. In the absence of any dispute that the award has already been prepared and the possession of land has already



been taken, in my view, the stand of the State-respondents that the Act of 2013 shall have no application appears to be correct.

9. There is dispute as to whether rest of the 20% amount has been paid to the petitioners or not.

10. This writ application in such background is disposed of with a direction to the Land Acquisition Officer to ensure that the amount of compensation which the petitioners admittedly are entitled to, is paid to them, if not already paid, within two months from the date of receipt/production of a copy of this order.

(Chakradhari Sharan Singh, J)

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