

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18743 of 2019**

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Brij Kishor Sah @ Brij Kishor Saw, Son of Ram Janam Sah, Resident of  
Village- Jamunapur, Post Office- Kateshar, Police Station- Bihta, District-  
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Secretary, Land Acquisition and Land Reforms Department, Government of Bihar, Patna.
3. The Director, Land Acquisition and Land Reforms Department, Government of Bihar, Patna.
4. The District Magistrate-Cum-Land Acquisition Officer, Patna.
5. The Land Acquisition Officer, Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Gopal Govind Mishra  
For the Respondent/s : Mr.Raj Kishore Roy (GP18)

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**  
**ORAL ORDER**

2      13-09-2019                      Heard both sides.

(2) The petitioner in this writ petition seeks following  
reliefs:

For issuance of a writ in the nature of Mandamus or  
any other appropriate writ/writs, order/orders,  
direction/directions for commanding the respondent authorities  
to recalculate the award dated 24.08.2015 and 24.09.2015 on the  
basis of market value of land on 01.01.2014 in the light of the  
provisions as contained in Section 24(1)(a) of Right to Fair



Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(hereinafter referred to for the sake of gravity as the Land Acquisition Act, 2013) and in the light of circular issued by the Central Government and notified by the State Government for payment of amount to the petitioner after deducting the amount of award dated 24.08.2015 and 24.09.2015 and/or any other relief/reliefs admissible under the law in the light of facts and circumstances of the case.

(3) Learned counsel for the petitioner submits that Govt. of Bihar issued notification vide Notification No.14/DLA 3 Patna 469/Ra dated 28.03.2011 for acquisition of land of the petitioner for construction of Mega Audyogik Park(Bhumi Bank) in Mauja Sikandarpur Part 2, Thana No.51, Anchal Bihta under Section 4 of Land Acquisition Act, 1894. The Govt. acquired 299.85 acres of land of the farmers of the village. The possession of the land was taken over on 14.08.2012 and the Govt. constructed the boundary wall on the aforesaid land. The Collector published the award on 24.09.2015. The petitioner received the award on the basis of market value of the land of year 2011-12. Learned counsel for the petitioner further submits that award dated 24.09.2015 is not in accordance with the provisions as contained in Section 24(1)(a) of the Land



Acquisition Act, 2013. The land of Brij Kishor Sah, the petitioner, was acquired vide L.A. Case No.1 of 2011-12 and the award was prepared on 24.09.2015 in view of the provision under Section 37(2) of the Act. The petitioner also received the award amount prepared under Section 37(2) of the Land Acquisition Act, 2013. It is submitted that Land Acquisition Act, 2013 came into force with effect from 01.01.2014 and the aim and object for framing the Land Acquisition Act, 2013 is to provide the suitable compensation to the farmers whose land was acquired by the State Govt. for public purpose. Section 24(1)(a) of the Land Acquisition Act, 2013 clearly stipulates that where no award under Section 11 of the Land Acquisition Act, 1894 has been made then all provisions of the Land Acquisition Act, 2013 shall be applicable for the determination of compensation. A Division Bench of this Court in the case of Sihasan Prasad and Ors. v. The State of Bihar and Ors. (in LPA No.136 of 2018) has held that award dated 13.01.2015, admittedly not being in compliance with the rates as applicable on 01.01.2014, has to be revised by the Collector and, therefore, an error committed by the authorities in proceeding to deliver an award contrary to the Statute on the strength of an executive fiat is, therefore, not legally sustainable and accordingly, direction



was given to the Collector to modify the award in view of the provisions as contained in Section 24(1)(a) of the Land Acquisition Act, 2013.

(4) Having considered the submissions of the petitioner, I find it proper to firstly reproduce Section 24 of the Land Acquisition Act, 2013 which reads as follows:

**“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—(1)Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894(1 of 1894)-**

**(a)where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or**

**(b)where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.**

**(2) Notwithstanding anything contained in sub-section(1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894(1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:**

**Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all**



**beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”**

(5) On careful perusal of the provisions as contained in Section 24(1)(a), it is crystal clear that if a proceeding under Land Acquisition Act is initiated under the provisions of Act 1 of 1894 but the award has not been prepared before the commencement of the Land Acquisition Act, 2013(Act 30 of 2013) then all the provisions of the Act 30 of 2013 relating to the determination of compensation shall apply. In the present case, it is admitted facts as also it appears from perusal of Annexure-1 of the writ petition that the award for acquisition of the land of the petitioner has been prepared under Section 37(2) of the Act 30 of 2013 and not under Section 11 of the Act 1 of 1894. The petitioner after preparation of the award under Section 37(2) of the Land Acquisition Act 2013(Act 30 of 2013) received the entire amount of compensation without any objection. Annexure-1 says that undersigned decided the amount of compensation on 24.09.2015 under the provisions of Sections 23 and 30 of the Act 30 of 2013 and the petitioner was noticed to appear on 08.10.2015 and thereafter on any working day and present the papers for receiving the amount of compensation for



the land acquired. Admittedly, it has neither been stated in the writ petition nor submitted on behalf of the petitioner that the petitioner filed any objection either with regard to the rate of compensation, amount of compensation and with regard to manner of calculation of compensation in view of the provisions of the new Act.

(6) Admittedly, the land acquisition proceeding was initiated by issuance of Notification No.14/DLA 3 Patna 469/Ra dated 28.03.2011 under Section 4 of the Land Acquisition Act, 1894(Act 1 of 1894) but the award was not prepared under Section 11 of Act 1 of 1894, therefore, in view of the provisions as contained in Section 24(1)(a), which applicable to the process for acquisition of land, there is no doubt that the Land Acquisition Authority instead of preparing the award under Section 11 of the Land Acquisition Act 1 of 1894 prepared the award under Section 37(2) of Land Acquisition Act, 2013(Act 30 of 2013). Thus, I find that there is no illegality as even if the process for initiation of proceeding was initiated under the provisions of Act 1 of 1894 after following all the procedures for acquisition of land and preparation of award as contained in the Land Acquisition Act, 2013, the award has been prepared under Section 37(2) of the Act 30 of 2013. Thereafter, the notice



under Section 37(2) of the Act was given to the land owner with stipulation that if the land owner accepts the award without any objection the land owner may come on 08.10.2015 with all the relevant papers stated therein to receive the award.

(7) Section 11 of the new Act of 2013 provides for publication of preliminary notification and power of officers thereupon. Under Section 12 of the Act provides for preliminary survey of land and power of officers to carry out survey, Section 13 provides for damage and Section 14 provides for lapse of social impact assessment report, Section 15 of the Act provides that if any person interested in any land which has been notified under sub-section (1) of Section 11, as being required or likely to be required for a public purpose, may within 60 days from the date of the notification of the preliminary notification, object to (a) the area and suitability of land proposed to be acquired (b) justification offered for public purpose and (c) the findings of the social impact assessment report to the Collector and the Collector under the Act shall pass order on the objection of the land owner after hearing him. Then Section 19 says about the publication of declaration and summary of rehabilitation and resettlement and land to be marked under Section 20 of the Act. Section 21 of the Act enjoins upon the Collector to publish the



public notice on his website and cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensations and rehabilitation and resettlement for all interests in such land may be made to him and shall state the particulars of the land so needed, and require all persons interested in the land to appear personally or by agent or Advocate before the Collector at any place mentioned in the public notice within not less than 30 days and not more than six months. Then the Collector after disposal of the objections make inquiry and land acquisition award within twelve months. Section 27 deals with determination of market value of land by Collector. Sections 27, 28 and 29 deal with manner of determination of award and thereafter the Collector shall prepare the award under Section 37 of the Act. If the landlord after receiving the notice under Section 37(2) of the Act after receiving the award prepared under Section 37(1) raise any objection with regard to the fixation of award, valuation of land and manner of determination of award then the Collector under the Act shall refer to the objection of the land owner to the authority under the Act under Section 64 of the Act but it appears that petitioner did not raise any objection either under



Section 19 or under Section 21 of the Act. Section 26 clearly stipulates the criteria and determining the market value of the land and after considering all the materials, the rate prevalent at the time of acquisition of land under the new Act, the award was prepared under the Section 37 of the Act 30 of 2013. The petitioner did not even after having received the notice under Section 37(2) raised any objection and received the entire amount of compensation. At no point of time, the petitioner objected that the award was not prepared in view of Section 26 of the Act 30 of 2013. The petitioner received the amount of award prepared under Section 37 of the Act in the year 2015 itself and kept mum for four years. Thereafter, petitioner filed this writ petition alleging therein that the award has not been prepared in accordance with provisions of Act 30 of 2013 whereas there is no material on record to show that award has not been prepared after taking into consideration the procedure as enumerated in Section 26 and 27 of the Act 30 of 2013. In absence of any such facts or any objection raised before the Land Acquisition Authority that the Land Acquisition Authority did not prepare the award of land acquired at the rate prevalent on 01.01.2014 whereas Annexure-1, notice under Section 37(2) of the Act, says that the award has been prepared after following



all the procedures of the Act 30 of 2013. I do not find any reason to direct the authority to re-assess the award according to the provisions of new Act.

(8) Thus, having considered the facts and discussion made above, I do not find any merit in this writ petition and accordingly, the writ petition is dismissed.

**(Prabhat Kumar Jha, J)**

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