

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.830 of 2018

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Devanti Devi wife of Sri Kishori Saw, resident of Village- Lodipur, P.S.- Bela,
District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Collector, Gaya.
2. The District Land Acquisition Officer, Gaya.
3. The National High Way Authority Implementing Unit, Gaya.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 982 of 2018

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Mina Devi W/o Sri Rameshwar Choudhary, Resident of Village-Lodipur, P.S.-
Bela, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Gaya
2. The District Land Acquisition Officer, Gaya.
3. Project Manager, NH. Authority Implementing Unit, Gaya.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 830 of 2018)

For the Petitioner/s : Mr.Nagendra Sharma

For Respondent No. 3(NHAI) Mr. Anshay Bahadur Mathur

For the State : Mr.Md. Khurshid Alam -AAG-12
Ms. Nutan Sahay

(In Civil Writ Jurisdiction Case No. 982 of 2018)

For the Petitioner/s : Mr.Nagendra Sharma

For Respondent No. 3(NHAI) Mr. Anshay Bahadur Mathur

For the State : Mr.S.C. Yadav- GP-15
Mr. Sanghamitra, AC to AAG12

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 02-04-2019 Heard learned counsel for the parties.

Both the cases involve the same issues and are based
on almost identical facts.



There has been acquisition of lands for extension of NH-83 at Lodipur, Belaganj in the district of Gaya. The lands of these petitioners have also been acquired over which there is no dispute. The petitioners have been paid compensation against acquisition of their lands in accordance with the provisions under the National Highways Act, 1956 (for short 'the Act of 1956') over which there is also no dispute. In course of said acquisition, the petitioners had to lose their residential/commercial structures, for which also they were required to be compensated. The valuation of the structures was done. In case of petitioner of CWJC No. 830 of 2018, it seems that initially she was found entitled to a sum of Rs. 83,40,106/-. Upon re-assessment, however, the said amount came to be reduced to Rs. 47,93,566/-. Similarly, in case of petitioner of CWJC No. 982 of 2018, as per the valuation of the structure/construction, initially, she was found entitled to a sum of Rs. 15,22,792/-. On re-assessment, the said amount has been reduced to Rs. 8,94,982/-. Based on re-assessment of the valuation of construction/structure, the petitioner has been paid the compensation amount, which is also not in dispute.

It is the case of the petitioners, referring to Section 33 of the Right to Fair Compensation and Transparency in Land



Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act of 2013'), that once the assessment was done and the amount of compensation was determined, the respondents could not alter the said amount to the disadvantage of the land losers, without resorting to the requirement under the said Section. Section 33 of the said Act reads thus:-

“33. Corrections to awards by Collector.—

(1)The Collector may at any time, but not later than six months from the date of award or where he has been required under the provisions of this Act to make a reference to the Authority under section 64, before the making of such reference, by order, correct any clerical or arithmetical mistakes in either of the awards or errors arising therein either on his own motion or on the application of any person interested or local authority:

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award so corrected to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the



excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered, as prescribed by the appropriate Government.”

In the counter affidavit(s) it has been stated that earlier valuation made by the valuer of the National Highways Authority of India was found erroneous, which was subsequently corrected and re-valuation was done. It has been stated that in view of the erroneous valuation of the structure(s), the compensation amount was determined, adding 100% solatium but before payment of compensation, after having detected the error, re-assessment was done and payment was made.

This Court had directed the learned counsel, representing the State of Bihar to produce the original records pertaining to acquisition of the lands, in question, which have been produced.

Learned counsel, appearing on behalf of the petitioners, has argued that, without giving the petitioners an opportunity of hearing before reducing the amount of compensation already determined, the authorities could not have reduced the same.

Mr. Mathur, learned counsel, appearing on behalf of



the National Highways Authority of India and the learned counsel, representing the State of Bihar, have submitted that the petitioners have failed to establish that on the basis of valuation earlier done, the award was prepared. It has also been argued that, in any case, the petitioners have alternative remedy of raising their claim before the Arbitrator under sub-section (5) of Section 3-G of the Act of 1956.

After having considered the rival submissions made on behalf of the parties and seeing the pleadings on record, I find that there is no averment made in the writ applications to the effect that on the basis of the earlier assessment done, an award was prepared. In the absence of such specific pleadings in the writ applications, in my view, Section 33 of the Act of 2013, cannot be invoked. I am also of the view that the petitioners have remedy under sub-section (5) of Section 3-G of the Act of 1956, by approaching the Arbitrator under the Act.

In such view of the matter, these writ applications are disposed of with liberty to the petitioners to file their claims for higher compensation before the Arbitrator under sub-section (5) of Section 3-G of the Act of 1956. The petitioners shall be at liberty to raise all the points before the Arbitrator which have been raised in the present writ applications. The petitioners may



also raise a claim, if they find material to raise, that on the basis of earlier valuation, the award was, in fact, prepared for payment of higher compensation which came to be reduced without giving any opportunity to the petitioners of hearing, as contemplated under Section 33 of the Act of 2013.

The writ applications are disposed of with the observation, as noted above.

Let the original records be returned to the learned State Counsel.

(Chakradhari Sharan Singh, J)

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