

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12486 of 2018

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Hidalgo Foods Industries Pvt. Ltd. Having its registered office at 1, R.N. Mukherjee Road, 3rd Floor, Room No. 302, Kolkata- 700001 having its factory unit at 338, and 339, Police Station- Lalganj, Village- Akbar Malahi, P.O. Sarai, District- Vaishali- 844125 through its authorized representative namely Vikash Kumar Agrawal son of C.M. Agrawal Resident of Watkins Lane, Howrah- 711101, West Bengal.

... .. Petitioner/s

Versus

1. The Union of India in the Ministry of Railways through the Secretary, Rail Bhawan, New Delhi.
2. The Principal Secretary cum Commissioner Department of Revenue and Land Reforms, Government of Bihar
3. The District Magistrate cum Collector, Vaishali at Hazipur
4. The District Land Acquisition Officer, Vaishali at Hazipur
5. The Circle Officer, Bhagwanpur, Vaishali

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 13725 of 2018

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1. Siddhi Refoils and Industries Pvt. Ltd. Having its registered office at 24 A, Parijat Apartment, Shakespeare Sarani, 2nd Floor, Kolkata- 700017 having its factory unit at 338 and 339, Police Station- Lalganj, Village- Akbar Malahi, P.O. Sarai, District- Vaishali- 844125 through its authorized signatory namely Nand Lal Kumar, son of Raj Kumar Singh resident of Village- Dharseni, Barbigha, District- Sheikhpura- 811101.
2. Jai Shree Balaji Fats and Oils Ltd. having it's registered office at 24 A,



Parijat Apartment, Shakespeare Sarani, 2nd Floor, Kolkata- 700017 and having one of branch office at 338, and 339 Police Station- Lalganj, Village- Akbar Malahi, P.O. Sarai, District- Vaishali- 844125 through its authorized signatory namely Nand Lal Kumar, son of Raj Kumar Singh resident of Village- Dharseni, Barbiga, District- Sheikhpura- 811101.

... .. Petitioner/s

Versus

1. The Union of India in the Ministry of Railways through the Secretary, Rail Bhawan, New Delhi.
2. The General Manager, East Central Railways, Hazipur, Vaishali.
3. The Principal Secretary cum Commissioner Department of Revenue and Land Reforms, Government of Bihar, Patna
4. The District Magistrate cum Collector, Vaishali at Hazipur.
5. The District Land Acquisition Officer, Vaishali at Hazipur.
6. The Circle Officer, Bhagwanpur, Vaishali.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 12486 of 2018)

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, Advocate

For the Respondent/s : Mr. Md.Khurshid Alam -AAG-12

(In Civil Writ Jurisdiction Case No. 13725 of 2018)

For the Petitioner/s : Mr.Atal Bihari Pandey, Advocate

For the Respondent/s : Mr.Sajid Salim Khan- SC-25

For the Railways : Mr. Abbas Haider, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-07-2020



Heard learned counsel for the parties.

2. Petitioner in C.W.J.C. No. 12486 of 2018 has prayed for the following relief(s):

“For issuance of a writ in the nature of certiorari for quashing of the notification published on 08.04.2018 by the respondent District Magistrate cum Collector, Vaishali under section 19 (1) of the Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as "The Act" for short) insofar as it concerns the lands belonging to the petitioner;

b) For issuance of a writ in the nature of mandamus directing the respondents specially the respondent District Magistrate cum Collector Vaishali to fix a date for hearing the petitioner on point of detailed objections submitted by the petitioner in terms of section 15 of the act and after due consideration of the objections were submitted by the petitioner prepare a report and place it before the appropriate Government for consideration and appropriate decision:

c) For further issuance of a direction upon the respondent District Magistrate cum Collector Vaishali to decide afresh the category of land belonging to the petitioner company which has been proposed to be acquired in terms of the



impugned notification;

d) For issuance of a writ in the nature of prohibition restraining the respondents from taking any further step in terms of the provisions of the act and in furtherance to the impugned notification published on 08.04.2018 in exercise of powers under section 19 (1) of the act insofar as the petitioner's land is concerned as a substantial part of the petitioner's land is the only entrance to the premises wherein the petitioner's high-capacity warehouses are existing;

e) For grant of any other relief/reliefs to which the petitioner may be found entitled to in the facts and circumstances of the case;

3. Petitioners in C.W.J.C. No. 13725 of 2018 have prayed for the following relief(s):

“a) For issuance of a writ in the nature of certiorari for quashing of the notification published on 08.04.2018 by the respondent District Magistrate cum Collector under section 19 (1) of the Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act 2013 (hereinafter referred to as "The Act" for short) insofar as it concerns the lands belonging to the petitioner;

b) For issuance of a writ in the nature of mandamus directing the respondents specially the respondent District Magistrate cum Collector



Vaishali to fix a date for hearing the petitioner on point of detailed objections submitted by the petitioner in terms of Section 15 of the Act and after due consideration of the objections to prepare a report and place it before the appropriate government for consideration and appropriate decision;

c) For issuance of a writ in the nature of prohibition restraining the respondents from taking any further step in terms of the provisions of the act and in furtherance to the impugned notification published on 08.04.2018 in exercise of powers under Section 19 (1) of the Act insofar as the plots proposed to be acquired adjoining the petitioner's factory premises are concerned;

d) For grant of any other relief/reliefs to which the petitioners may be found entitled to in the facts and circumstances of the case;”

4. On our request, all the parties visited the spot for ascertaining the exact position of ingress and egress of the petitioners' premises. We are informed that there is no difficulty in providing the same. The only difference being the exact location and place of such access.

5. Well, it is a policy decision and we cannot adjudicate the exact place from where the petitioners can have



access to their premises.

6. We notice that land for public purpose, namely, construction of doubling of track from Hazipur to Ramdayalu, stands acquired by the State for the beneficiary i.e. Railways. It has come on record that 99 per cent of the work is complete and only on account of interim orders, especially dated 10th of August, 2018, the project is lying incomplete, causing immense public loss and inconvenience. Also causing great hardship to public. Unfortunately, public work of prime importance stands stalled. Neither did the acquirer, nor the beneficiary take steps for getting the orders vacated/ modified.

7. Be that as it may, after visiting the site, in the court, parties have arrived at an amicable settlement. Petitioners contend that the affidavit filed by the Railways, more particularly Paragraph 8, reproduced hereinbelow, satisfies the petitioners' concern and protects interest and nothing more is required:

“That during shifting of this Level Crossing, some of the land of M/s Siddhi Refoil and Industries Pvt. Ltd. And M/s Jai Shri Bala Jee Fats and Oil Pvt. Ltd., as marked as “C” and “D” in the Map, has to be acquired. It is important to point out that for convenience of public and the petitioner, Railway has also proposed to construct public Road as



marked as “E” and “F” in the Map which will equally be beneficial for the petitioner because petitioner’s boundary will run parallel to the Road and therefore, petitioner can open an alternative gate alongside the road in place of existing gate which is proposed to be acquired. Thus, there is no issue of gate as claimed by the petitioner.”

8. The statement is accepted and taken on record.

9. As such, the present petitions are disposed of with the following directions:

- (a) All interim orders, particularly dated 10th of August, 2018, stands vacated forthwith;
- (b) the respondent i.e. the State/ beneficiary of acquisition shall forthwith take possession of the land in relation to which notification under the provisions of the Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 stands issued.
- (c) Petitioners’ undertaking that they shall not obstruct or cause any obstruction or hindrance in the execution of the work is accepted and taken on record;
- (d) They stand apprised of the consequences of breach of their undertaking, including initiation of proceedings



for contempt.

(e) This Court also accepts the affidavit filed by the Railways. The respondent-authority shall construct the road enabling the petitioners to open the gate in terms of averments made in Paragraph 8 of the counter affidavit reproduced supra.

(f) During the construction of public work, the authorities shall ensure that the petitioners' access to the premises is not obstructed in any manner.

(g) The Railways shall complete the project without any further delay.

(h) No order as to costs.

10. With the aforesaid observations/directions, both the petitions stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	14.07.2020
Transmission Date	

