

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21796 of 2019

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1. Janardan Pathak S/o Late Radheshyam Pathak @ Radheshyam Shastri, Resident of Village-Puneshra, P.O.-Barbiga, Police Station-Jairampur, District-Shiekhpora.
 2. Dinesh Pathak S/o Late Ramnandan Pathak, Resident of Village-Puneshra, P.O.-Barbiga, Police Station-Jairampur, District-Shiekhpora.
 3. Pawan Singh S/o Late Ekram Singh Resident of Village-Puneshra, P.O.-Barbiga, Police Station-Jairampur, District-Shiekhpora.
 4. Manorma Devi W/o Yadunandan Jha, Resident of Village-Puneshra, P.O.-Barbiga, Police Station-Jairampur, District-Shiekhpora.
 5. Karyanand Pathak S/o Late Sitaram Pathak, Resident of Village-Puneshra, P.O.-Barbiga, Police Station-Jairampur, District-Shiekhpora.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Collector-Cum-District-Magistrate, Sheikhpura.
3. The Additional Collector, Sheikhpura.
4. The District Land Acquisition Officer, Sheikhpura.
5. The Circle Officer, Barbiga, Sheikhpura.
6. The Union of India through the General Manager, East Central Railway, Danapur.
7. The Divisional Railway Manager, East Central Railway.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Himanshu Kumar Akela
For the Respondent/s	:	Mr.Subash Chandra Yadav (GP15)
For the Railway	:	Mr. Kumar Alok

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 14-01-2020 Heard both sides.

The petitioners by filing this writ petition seeks
following reliefs:

I. For issuance of an order, direction or a writ of
mandamus for directing the respondent authorities to



make payment of the award in relation to the acquisition of their landed property situated at Mauza-Narayanpur, Chadar No.1 Pargana Maidah, Thana No.62, District-Sheikhpura for construction of Daniyawa-Barbigha-Sheikhpura Railway Line after revising it in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 which provides for determination of compensation in accordance with the aforesaid Act where no award was prepared on the date of commencement of the Act, although the Land Acquisition Proceeding had been initiated under the 1894 Act.

II. For issuance of an order, direction of an appropriate writ for directing the respondent authorities to prepare the award by treating the reference date for determination of market value of the landed property as on 01.01.2014 instead of the year 2007 in view of the provisions contained in Section 24(1)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation



and Resettlement Act, 2013 as well as the decision of the Central Government as contained in letter/communication dated 26.10.2015.

Learned counsel for the petitioners submits that of course the land acquisition proceeding was initiated in the year 2007 under Land Acquisition Act, 1894 but the acquisition proceeding continued till the new Land Acquisition Act, 2013 came into effect with effect from 01.01.2014. The Land Acquisition Authority undertook the preparation of award under Section 37 of the new Land Acquisition Act, 2013 but did not give any notice as required under Section 37(2) of the Act. It is further submitted that at no point of time, the Land Acquisition Authority gave notice to the petitioner for filing any objection with regard to the valuation of the land. Award was prepared on the basis of the value of the land prevailing in the year 2007 and not at the rate/value prevailing on 01.01.2014. Other villagers whose lands have also been acquired for construction and laying of railway track filed C.W.J.C. No.3860 of 2015 and a Bench of this Court by order dated 10.04.2019 directed the petitioners of the aforesaid writ petition to file petition before the Land Acquisition Authority raising objection with regard to the valuation of the land on the basis of which the award was



prepared and on such, the Land Acquisition Authority shall refer the matter under Section 64 of the Act to the Authority constituted under the Act who shall decide the matter in accordance with law. The counter-affidavit has also been filed on behalf of the State and admitted in para 11 and 12 that the award was prepared on the basis of the valuation of the land prevailing at the time of issuance of notification for acquisition of the land in the year 2007. In view of the provisions as contained in Section 24 of the Act and the notification issued subsequent to by the Central Govt., the award has to be prepared on the basis of the valuation of the land prevalent on 01.01.2014. This Court in C.W.J.C. No.3860 of 2015 has also directed the petitioners of that case to file objection before the Land Acquisition Authority who shall refer the matter to the Authority under the Act for considering the objections of the petitioners for fixing the award.

Learned counsel for the Indian Railway submits that Railway has already deposited the amount before the Land Acquisition Authority.

Having considered the facts and after considering the order passed by this Court in C.W.J.C. No.3860 of 2015 on 10.04.2019, I dispose of this writ petition with a direction to the



petitioners to file a detailed petition before the Land Acquisition Authority raising objection with regard to the preparation of award on the basis of the valuation of the land prevailing on the date of issuance of notification for acquisition of land and not on the basis of valuation of the land existing on 01.01.2014 although the award has been prepared under Section 37 of the Land Acquisition Act, 2013 and the Authority shall refer the matter before the appropriate authority constituted under Section 51 of the Act. The Land Acquisition Authority shall refer the matter to the Authority constituted under the Act within one month from the date of filing of such objection by the petitioner and thereafter the authority shall dispose of the case of the petitioners within six months from the date of such reference.

With the aforesaid direction, this writ petition is disposed of.

(Prabhat Kumar Jha, J)

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