IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 4443 of 2019

1. Pranesh Kumar Sinha
2. Sanjay Kumar Sinha
3. Bijay Kumar Sinha
4. Krishna Mohan Prasad Sinha
5. Kanaklata Devi
6. Ajay Kumar Sinha

... … Petitioners

Versus

1. The State of Jharkhand
2. The Secretary, Department of Land & Revenue, Ranchi
3. The Deputy Commissioner, Deoghar
4. The District Land Acquisition Officer, Deoghar,
5. The Assistant Engineer, Department of Road and Construction, Deoghar
6. The Engineering Department, Indian Railways, Ranchi

… …Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner :- Mr. Niranjan Kumar, Advocate
For the State :- Mr. Amit Kumar Asthana, A.C. to G.A.-IV

Order No. 03 **Dated: 21.10.2020**

The present case is taken up through video conferencing.

2. The present writ petition has been filed for issuance of direction upon the respondents to ascertain appropriate compensation of land as per the market value along with other amount as solatium etc. as the land of the petitioners appertaining to Khata Nos. 55 and 103, plot nos. 496, 497, 498, 499, 500, 501,501/612 and 503 measuring an area of 0.79 acre, Mouza - Nawadih, Thana No. 292, District-Deoghar (hereinafter referred to as "the said land") has been acquired in L.A Case No. 54 of 2017-18 for construction of a Road Over Bridge (ROB) over the railway crossing between the Shankarpur-Jasidih Railway Station being level crossing no. 27/C/E.

3. The factual background of the case as stated in the writ petition is that the said land was recorded in the name of one Suwansh Lal. Jamabandi of the said land was also opened in his name and accordingly, he was regularly paying the rent thereof. After his death, the petitioners and other co-sharers came in possession of the said land and started paying rent of the same. Further, a notice was issued by the Assistant Engineer, Department of Road Construction,

Deoghar (respondent no. 5) on 09.02.2017 in the name of the recorded tenants stating therein that the said land would be acquired by the District Land Acquisition Officer, Deoghar (respondent no. 4) for construction of the Road Over Bridge (ROB) over railway crossing between the Shankarpur-Jasidih Railway Station being level crossing no. 27/C/E. The petitioners and other land holders submitted their genealogical table with documents in respect of the said land and thereafter an award was prepared on 10.12.2018 for an amount of Rs. 24,12,972/-. The petitioners submitted representation before the Deputy Commissioner, Deoghar (the respondent no. 3) on 28.12.2018 raising their objection regarding payment of lesser compensation and prayed for enhancement of the same according to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short" the Act, 2013"). However, the said award was subsequently modified on 13.03.2019 and the amount was reduced to Rs. 22,19,074/-. The awarded amount was thereafter proportionately divided among the petitioners by the respondent no.4 and paid through RTGS. The grievance of the petitioners is that in spite of giving representation to the respondent no. 3 for enhancement of compensation, nothing has been done in this regard. Hence, the present writ petition.

4. The learned counsel for the petitioners submits that the respondents have not paid the "Solatium" amount equivalent to the one hundred per cent of the compensation amount to the petitioners according to law laid down under Section 30 of the Act, 2013. The Department of Land Revenue, Government of Jharkhand has issued a resolution on 31.08.2018 whereby guidelines have been framed in connection with the provisions of the Act, 2013 regarding payment of compensation to the land losers in which it has clearly been mentioned that the government will pay the compensation amount to the land losers after determining the market value of land by the Collector in view of Section 26 of the Act, 2013. It is further submitted that in the same district, the respondents have paid compensation amount at the rate of 56,717.59/- per decimal in the year 2015 to the land losers of Mouza- Domamarni whose land were

acquired for construction of aerodrome, however in the present case, the respondent authorities have paid compensation amount at the rate of Rs. 28,089.54 per decimal for the construction of a Road Over Bridge (ROB) over the railway crossing between the Shankarpur-Jasidih Railway Station being level crossing No. 27/C/E. The present land is situated at the main road and behind the railway crossing and as such the rate of the land should be same as determined for the land of the aerodrome area, Deoghar.

5. Mr. Amit Kumar Asthana, learned A.C. to G.A.-IV, submits that the respondents have fixed compensation amount in accordance with rules and criteria fixed for calculating the adequate compensation. The respondents have prepared award no. 5 in L.A Case No. 54/ 2017-18 dated 11.12.2018 and 13.03.2019 in accordance with the provisions of Section 23 and 30 of the Act, 2013, hence there is no violation of the provisions of the Act, 2013. Section 26 of the Act, 2013 is not applicable in acquisition case of the petitioners as the nature of land of the petitioners is agricultural.

6. Heard the learned counsel for the parties and perused the materials available on record. It is evident that the petitioners are aggrieved with the payment of lesser amount of compensation and their grievance is that according to the nature of the land, they should have been paid higher compensation than what has been paid to them. On the other hand, the respondents claim that the compensation amount has been paid to the petitioners in accordance with the rules and criteria fixed for calculating the adequate compensation. Section 64 of the Act, 2013 explicitly provides that if any person interested who has not accepted the award may, by written application to the Collector, require that the matter may be referred by the Collector for determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters- V and VI or the apportionment of the compensation among the persons interested. Here, the petitioners are disputing the amount of compensation, hence they should have made application before the

Collector stating the ground of objection for referring it to the "Authority". However, the petitioners failed to show before this court that any such application was filed by them before the Collector for referring the matter to the "Authority". However, it is evident that one representation dated 28.12.2018 was sent to the respondent no. 3 through registered post raising objection regarding fixation of compensation for the said land which seems to be filed before receiving the compensation. Though it has also not been brought to notice of this court as to whether after receiving the compensation amount, they had made any protest as to the insufficiency of the awarded amount.

7. Under the aforesaid facts and circumstance, without entering into the merit of the case of the parties, the present writ petition is disposed of with a liberty to the petitioners to prefer a fresh application before the respondent no. 4- the District Land Acquisition Officer, Deoghar under Section 64 of the Act, 2013 raising their grievances, which shall be dealt with by the said respondent expeditiously in accordance with law.

(Rajesh Shankar, J.)

Ritesh/A.F.R.