

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7245 of 2012

- 1.1. Chandra Kala Singh W/o Late Kamal Deo Narayan Singh.
- 1.2. Rakesh Narayan Singh, son of Late Kamal Deo Narayan Singh
- 1.3. Anita Singh, daughter of Late Kamal Deo Narayan Singh.
All residents of village + P.O. + P.S.-Parbatta, District - Khagaria.

... .. Petitioners

Versus

1. The State of Bihar.
2. The Principal Secretary, Disaster Management, Govt. Of Bihar, Patna
3. The Principal Secretary, Revenue And Land Reforms Department, Govt. Of Bihar, Patna
4. The Director, Land Acquisition Department, Govt. Of Bihar, Patna
5. The District Magistrate, Khagaria
6. District Land Acquisition Officer, Khagaria
7. The Circle Officer, Parbatta, Khagaria
8. The Bihar State Electricity Board Through Its Secretary Vidyut Bhawan, Bailey Road, Patna
9. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
10. The Chief Engineer, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
11. The Executive Engineer, Bihar State Electricity Board Khagaria

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Rakesh Narayan Singh (in person)
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL JUDGMENT

Date : 22-11-2022

Heard learned counsel for the parties.

2. This writ petition has been filed for a direction to the respondents to make payment of compensation to the petitioners after preparing award for 68 decimal of land of the



petitioners situated in Thana No. 364, Mauza Karna, Khata No.117, Plot No. 221 situated in Parbatta Anchal of Khagaria district, which was acquired in the year 2010 by the respondents for constructing 33 K.V. Power Sub-Station in Parabatta, District- Khagaria.

3. The brief facts of this case are that the petitioners are the legal heirs of original petitioner namely, Kamaldeo Narayan Singh, who died during the pendency of this writ petition. In the year 2009-10, the respondents approached the original petitioner for providing land in question for the purposes of constructing power sub-station and assured him that compensation amount will be paid immediately. On 08.12.2009 the respondents laid foundation stone upon the land in question.

4. It is the case of the petitioners that in spite of repeated request made by the original petitioner for payment of compensation for the land in question, till date the compensation has not been paid to the petitioners. Ultimately, the original petitioner made representations before the respondents for payment of compensation but there was no response from the respondents. Hence, this writ petition.

5. Learned counsel for the petitioners submits that earlier two family members of the petitioners have donated



one Bigha of land of same plot to the Bihar State Electricity Board by registered gift deed for construction of Power Sub-Grid and later on, the Electricity Board and the local M.L.A. pressurized the original petitioner to give another 10 Khatas of land of the same plot of his share for fulfillment of the requirement of Power Sub-Grid and in such a situation, the petitioner agreed to provide the said land on the assurance of the respondents that they will get compensation for the land in question. However, till date the respondents have not paid the compensation.

6. In this case, a supplementary counter affidavit has been filed by the State, wherein it has been stated that the son of original petitioner namely, Rakesh Narayan Singh has transferred remaining 10 Khata of his land on a non-judicial stamp paper executed on 12.11.2009, in which it has been mentioned that co-sharers of original petitioner have already gifted one Bigha of land for construction of Electric Power Sub-Station and since the Electricity Board is facing difficulty in constructing the Electric Power Sub-Station as the width of the land is not sufficient, he is ready to give 10 Khattas of land of plot no.221 under Khata No. 117 to the Electricity Board and he will deposit the paper of gift deed to the concerned office at the



earliest.

7. It has been submitted by learned counsel for the State that when the son of the original petitioner had executed the agreement on 12.11.2009 that he was ready to donate the land in question to the Electricity Board, now he cannot allow to say that he has given his land to the Electricity Board in lieu of compensation. It has also been contended that at the time of erecting boundary wall, the petitioners did not oppose the same.

8. In reply to the aforesaid submission of learned counsel for the State, it has been contended by the petitioners that the signature of Rakesh Narayan Singh was obtained on a plain paper by some officials and influential persons by keeping him in dark and subsequently, the said paper was used by the respondents as an agreement. It has also been contended that the land in question belongs to father of the petitioner no.2, who was alive at the time of so-called agreement and his son i.e. Rakesh Narayan Singh could not have executed any agreement in favour of anyone. It has also been contended that if it is presumed that any deed was made then also it does not confer any right in favour of anyone because it is a non-registered document which has no value as per Section 17 of the



Registration Act and it does not confer any right in favour of the Board.

9. Considered the submissions of the parties.

10. It is an admitted fact that the land of the petitioners has been taken by the Bihar State Electricity Board in the year 2009-10 for the purposes of constructing Power Sub-Grid Station but, till date compensation has not been paid to the petitioners. On the basis of so-called agreement dated 12.11.2009, the respondents are claiming that since the petitioner no.2, who is the son of original land owner, has executed the agreement dated 12.11.2009 by which he had donated the land in question to the Electricity Board, now he cannot say that he has given his land to the Electricity Board in lieu of compensation but, the fact remains that the agreement is of 12.11.2009 and at that time the father of petitioner no.2, who was the original owner of the land was alive and he got the aforesaid land pursuant to a judgment passed in Title Suit No. 25 of 1949 / 41 of 1951 by the Sub Judge, 1st, Munger. In the opinion of this Court, when the father of the petitioner no.2, who was the original owner of the land in question, was alive, the petitioner no.2 had no power to execute any deed in favour of anyone during the lifetime of his father. Further, it appears from



the record that pursuant to the order dated 30.04.2012 passed by a co-ordinate Bench of this Court, a spot inspection was conducted by an Advocate Commissioner on 05.05.2012 after due notice to the parties concerned. In the report of the Advocate Commissioner, it has been categorically mentioned that at the time of spot verification neither the officers of the Electricity Board nor any person concerned has produced any document regarding agreement dated 12.11.2009 which is said to have been made between the petitioner no.2 and the Electricity Board. The Electricity Board is claiming that the agreement was executed in the year 2009 and the spot inspection was conducted in the year 2012, it creates doubt over veracity of the agreement. Moreover, even if it is presumed that any agreement was made between the petitioner no.2 and the Electricity Board then also it does not confer any right in favour of anyone because the petitioner no.2 had no power to transfer the land belonging to his father and that too by a non-registered agreement.

11. In the result, this writ petition is allowed. The respondents are directed to calculate the compensation amount for the land of the petitioners acquired by the respondents in accordance with law under the Right to Fair Compensation and Transparency in Land Acquisition,



Rehabilitation and Resettlement Act, 2013. The exercise must be done by the District Magistrate, Khagaria and the District Land Acquisition Officer, Khagaria within six months from the date of receipt/production of a copy of this order.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	09.08.2023.
Transmission Date	

