

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4502 of 2016

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1. Bibi Meenu Mumtaz, W/o Md. Waseemuddin
 2. Md. Asif Waseem S/o Md. Waseemuddin Both R/o Village - Bardah, P.O. - Dariyapur, P.S. - Muffasil, District - Munger.

... .. Petitioner/s

Versus

1. The Union Of India, Secretary, Ministry of Power, New Delhi.
2. The NTPC, Kahalgaon, through its General Manager, Kahalgaon, Bhagalpur.
3. The District Land Acquisition Officer, Bhagalpur.
4. The District Magistrate, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioners	:	Mr. Raghiv Ahsan, Sr. Advocate Mr. Sanjay Sinha, Advocate Mr. Wasi Akhter, Advocate
For the State	:	Mr. Sarvesh Kr. Singh, AAG-13 Mr. Arya Achint, AC to AAG-13
For N.T.P.C.	:	Mr. Amaresh Kr. Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 22-12-2023 1. Heard learned senior counsel for the petitioners and learned counsel for the State, as well as learned counsel for respondent-N.T.P.C..

2. This writ application has been filed for the following reliefs:-

- “(i) For payment of the amount of compensation for acquisition of the land of petitioner no.1 by preparing award calculated at present and prevailing rates.*
- (ii) For payment of penal interest on the amount of award so calculated.*
- (iii) For grant of other benefits to the petitioners which were grant to similarly situated land*



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(iv) For any other relief or reliefs for which the petitioner is fraud entitled to.”

3. It is the contention of the petitioner No. 1 that she is owner of 15 decimals of land pertaining to Khata No. 793, Khesra No. 2369 of Mauza- Maheshamunda, Anchal- Kahalgaon, District- Bhagalpur. This land was purchased by her through a registered sale deed dated 29.11.1983. After the purchase, she got the land mutated in her name in 1984 and a Jamabandi No. 1697 was created in her name, which is still running. The rent for the said land has regularly been paid. It was only in the year 2012, after the retirement of husband of petitioner No. 1, she decided to properly arrange the affairs of the landed property, including the suit land. During her effort, it came to her knowledge that the present suit land has been encroached by the NTPC, Kahalgaon and the main entrance gate of the corporation stands on it. When she approached the authorities of the corporation through her son (Petitioner No. 2), she was told that the land has been acquired, though no paper was shown, neither she was allowed to trace the exact physical location of her land. Aggrieved by the indifferent attitude of the officials of the NTPC, Kahalgaon, she filed BLDR Case No. 321/2012-13 before the DCLR, Kahalgaon. On 03.05.2013, an



ex parte order was passed by the learned DCLR, Kahalgaon in which he directed the General Manager, NTPC, Kahalgaon to examine the claim of the petitioner No. 1 and to vacate the suit land forthwith, if the claim was not settled. Aggrieved with the order dated 03.05.2013, the General Manager, NTPC, Kahalgaon preferred BLDR Appeal No. 209 of 2013-14 before the Divisional Commissioner, Bhagalpur. In the aforesaid appeal, the corporation claimed to have acquired the said land and paid compensation to a third person, though no papers in support of their claim was produced. The learned Divisional Commissioner, Bhagalpur, after hearing the parties, came to the following conclusion while passing the order dated 28.06.2014:-

“On going through the details of the case and connected records, I find that the land situated inside the boundary wall of NTPC has been acquired by the Government and handed over to the NTPC. The appellant cannot claim it now after a gap of nearly 30 years. It is not known whether the 15 decimals of land for which Jamabandi No. 1697 has been created is inside the boundary wall or outside the boundary wall. Hence the DCLR, Kahalgaon and Anchal Adhikari, Kahalgaon shall find out the actual location of the above said 15 decimals of land. If it is found that the land is inside boundary wall, the District Land Acquisition Office will verify whether the compensation has been paid to anybody or not. If no compensation has been paid for the 15 decimals of land so



far the appellant can consider request for fresh acquisition of this chunk of land. If the 15 decimals land of the respondent lies outside the boundary wall of NTPC, same shall be demarcated. The entire exercise should be done within 30 days of receipt of the order. The case is hereby disposed.”

4. Pursuant to the aforesaid order dated 28.06.2014, the suit land was measured by the Anchal Amin and it was found that it is situated well within the boundary of NTPC, Kahalgaon and its main gate is also situated on it. But even after many visits and requests, no documents regarding its acquisition or payment of compensation was made available to the petitioners. Feeling aggrieved thereby, this writ application has been filed.

5. In this case a counter-affidavit has been filed on behalf of Respondent Nos. 3 & 4.

6. Learned counsel appearing on behalf of the State, while opposing the prayer and submissions made on behalf of the petitioners, submits that the entire area of the aforesaid piece of land was acquired for the said project through two land acquisition cases bearing Land Acquisition Case No. 22 of 1984-85 and Land Acquisition Case No. 46 of 1984-85 by which an area measuring to 0.06 acres and 0.91 acres respectively was acquired. Thereafter, Award No. 90(A) for Rs.



1923.57 with respect to land acquired through Land Acquisition Case No. 22 of 1984-85 was prepared in the name of Chetu Tanti, son of Dhanna Tanti, and the same was paid to him. In the same way, Award No. 99(A) & Award No. 100 for the total amounts of Rs. 13929.05 and Rs. 15890.11 with respect to land acquired through Land Acquisition Case No. 46 of 1984-85 was prepared in the name of Chetu Tanti, son of Dhanna Tanti, and Bibi Minu Mumtaz, wife of Md. Wasimuddin, and the same stands paid to them. He further submits that pursuant to the order passed by the Divisional Commissioner, in order to look into the claim pertaining to 15 decimals of land of the petitioner No. 1, the District Magistrate, Bhagalpur had constituted a committee comprising of District Land Acquisition Officer, Bhagalpur; Deputy Collector Land Reforms, Kahalgaon; Representatives of NTPC, Kahalgaon; and Circle Officer, Kahalgaon, vide order dated 29.08.2022 contained in Memo No. 1092. The said committee got the land measured on 01.09.2022, in presence of the son of the petitioner No. 1, namely Md. Asif, and after measurement of the land, the Committee found the claim of the petitioners not true and accordingly submitted its report. The report contains the signature of son of the petitioner No. 1, namely Md. Asif Waseem (Petitioner No. 2).



7. Taking into consideration the rival submissions made on behalf of the parties and materials available on record, this court does not find any error or irregularity on the part of respondent-Authorities. It is not in dispute that pursuant to order of the Divisional Commissioner, the land in dispute got measured in presence of parties on 01.09.2022, which did not find the claim of the petitioners true. There is no other evidence on record in support of the claim.

8. In the aforesaid facts and circumstances of the case, the writ petition is disposed of with liberty to the petitioners to seek alternative remedy, which may be available to them, in accordance with law.

(Prabhat Kumar Singh, J)

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