

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4906 of 2018

1. Indrajit Kumar, Son of Suresh Chandra Chaudhari, Resident of Ward No. 3, Mehan, P.O. - Dandari, P.S. - Dandari, District - Begusarai.
2. Premjit Kumar, Son of Suresh Chandra Chaudhari, Resident of Ward No. 3, Mehan, P.O. - Dandari, P.S. - Dandari, District - Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue & Land Reforms Department, Patna.
2. The Director-Cum-Special Secretary, Revenue & Land Reforms Department, Govt. of Bihar, Patna.
3. The Presiding Officer, Land Acquisition, Rehabilitation & Resettlement Tribunal, Munger Division, Munger.
4. The Hon'ble High Court of Judicature at Patna through its Registrar General.
5. The Registrar General, the Hon'ble High Court of Judicature at Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Adv.
	:	Mr. Raghubir Chandrayan, Adv.
For the P.H.C.	:	Mr. Satyabir Bharti, Adv.
	:	Mr. Abhishek Anand, Adv.
For the State	:	Mr. Dhurjati Kumar Prasad, GP-15.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 23-06-2023

Heard learned counsel for the petitioners, learned counsel for the Patna High Court and learned counsel for the State.

2. The present writ petition has been filed for quashing the order dated 01.11.2017 passed by Sub Judge-1, Begusarai in Land Acquisition Case No.06 of 2010 by which it has been held that Court of Sub Judge-1, Begusarai has no jurisdiction to try Land Acquisition Case No.06 of 2010.

3. Learned counsel for the petitioners submits that land acquisition proceeding of the petitioners' land has been initiated in the year 2006-07 and award (Panchat) has been prepared on 26.11.2009. He further submits that the petitioners received the payment as per award with protest on 26.11.2009. He also submits that on the point of the amount of compensation, petitioners have preferred reference under the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act of 1894') which was numbered as Acquisition Case No.06 of 2010. Counsel for the petitioners submits that vide Annexure-5, a letter dated 25th March, 2017 has been issued under the signature of Registrar General, Patna High Court, Patna in which direction has been issued to transmit the entire records relating to the payment of compensation of land acquisition and rehabilitation to the Court(s) presiding Land Acquisition Rehabilitation and Resettlement matters (in short named as 'LARRA'). He further submits that in compliance with the said letter dated 25th March, 2017, the case of the petitioner was transferred before the LARRA and registered there as LARRA Case No.37 of 2016. He submits that LARRA vide order dated 13.01.2017 has remanded the matter back to the Sub Judge-1, Begusarai indicating in its order that since the matter relates to

the acquisition of land according to Act of 1894, therefore, the Civil Court, Begusarai is the only competent to hear the matter and the LARRA has no jurisdiction to try this case. Thereafter, petitioners have filed an application before Sub Judge-1, Begusarai to hear this matter on which the court of Sub Judge-1, Begusarai had passed order on 01.11.2017 and held that Court of Sub Judge-1, Begusarai has no jurisdiction to try this case. As such, the petitioners have no other remedy except to move before this Court challenging the order dated 01.11.2017 passed by Sub Judge-1, Begusarai in Land Acquisition Case No.06 of 2010.

4. Learned counsel for the State submits that though there is no counter affidavit in this case on behalf of the State on record, since it is a purely legal matter in which Question of Interpretation of Statutes is involved, therefore, there is no need for filing any counter affidavit on behalf of State. On the point of law, he submits that as per the arguments and pleadings advanced on behalf of the petitioners, it is crystal clear that the land acquisition proceeding, award, and reference which subsequently resulted in the present Land Acquisition Case No.06 of 2010 is related to the Act of 1894. Therefore, according to the Statute, he submits that this case has to run

according to the old law, and under old law Sub Judge-1, Begusarai is empowered to hear this case and he ought to hear.

5. Learned counsel appearing on behalf of the Patna High Court submits that the stand of the High Court through the administrative side is very much clear and in this regard, a letter dated 25.03.2017 has already been issued which is annexed as Annexure-5 whereby all the District & Sessions Judge of Bihar have been directed to send the entire records relating to the payment of compensation of land acquisition and rehabilitation to the Court(s) presiding Land Acquisition Rehabilitation and Resettlement Act i.e. LARRA. He further submits that a letter was also issued on 08.07.2016 which is annexed as Annexure-4 in which discussion of Section 24(1) read with Section 64 and Section 11 of Right to Free Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as RFCTLARRA) have been made, while deciding that all matters following under RFCTLARRA pending before the concerned District Court would be transferred to the LARRA.

6. Upon going through the pleadings and hearing the arguments as well as upon considering the position of law, it is necessary to re-write the relevant provision of law for

adjudication of this case particularly Section 114 of **The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARRA)** states as follows:-

114. Repeal and Saving.-(1) The Land Acquisition Act, 1894(1 of 1894) is hereby repealed.

(2) Save as otherwise provided in this Act the repeal under sub-section (1) shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeals.

7. For proper interpretation of Section 114(2) of the RFCTLARRA, it is necessary to discuss Section 6 of General Clauses Act, 1897 (10 of 1897), the provision of Section 6 of the General Clauses Act states as follows:-

6. Effect of repeal.—Where this Act, or any 4 [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention

appears, the repeal shall not--

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been

passed.

8. With a view to decide this case, there are certain factual matrix on which there is no dispute at all.

9. The case of petitioner is fully covered under the Statute of the Act of 1894. His land was acquired in the year 2006-07, the award has been prepared in the year 2009 and the petitioners received the payment of compensation mentioned under the award with protest on 26th November, 2009. Thereafter, persuaded in reference to enhancing the quantum of compensation and the said case was registered as Land Acquisition Case No. 06 of 2010 before the Court of Sub Judge-I, Begusarai. It is also admitted that a new Land Acquisition Act has been enacted and published in the Gazette of India Extraordinary No.40 Part-II dated 27.09.2013. By virtue of Section 114(1) of the RFCTLARRA, the Act of 1894 has been repealed.

10. It is very much clear upon reading of Section 114 (2) of RFCTLARRA mentioned above that this Section 114 (2) is nothing but the saving clause of repeal, which states that Section 114 (1) of RFCTLARRA shall not prejudice or affect Section 6 of General Clauses Act, 1897 (10 of 1897) with regard to the repeals and the General Clauses Act Section 6 (b) states

that the repeal shall not affect the previous operation of any enactment so repealed or anything done or suffered thereunder. Further Section 6 (c) of the General Clauses Act states that the repeal shall not affect any right, privilege, obligation, or liability acquired, accrued, or incurred or any enactment so repealed. Further Section 6(e) states the repeal shall not affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid.

11. Meaning, thereby, those matters covered absolutely under the old Act; the persons who want to avail their rights and legal remedies under the old Act, and whose proceeding is pending under the old Act shall run according to the old Act. Meaning thereby, the case of the present petitioners which was absolutely covered under the old Act by virtue of power laid down under Section 114(2) of RFCTLARRA read with Section 6 of the General Clauses Act shall run before Sub Judge-1 only and not before any other Court.

12. In this background the order dated 01.11.2017 passed by Sub Judge-1, Begusarai in Land Acquisition Case No.06 of 2010 is hereby set-aside.

13. Sub Judge-1, Begusarai is hereby directed to

hear the case of petitioners in accordance with the law.

14. Respondent No.5, namely, the Registrar General, Patna High Court, Patna is directed to ratify the letter dated 25th March, 2017 in accordance with the provisions laid down under Section 114 (2) of RFCTLARRA read with Section 6 of General Clauses Act.

15. With this direction, the present Writ Petition stands allowed. Office is directed to place this order before the Registrar General, High Court of Judicature at Patna.

(Dr. Anshuman, J.)

Ritik/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	