

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2945 of 2023

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Vishwnath Singh S/o- Late Tulsina Singh, R/o Village- Khaira, P.S.- N.T.P.C.
Khaira, District- Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reform, Govt. of Bihar, Old Secretariat, Patna.
2. The Director, Land Acquisition, Directorate of Land Acquisition, Govt. of Bihar, Old Secretariat, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. The District Magistrate Cum Collector, Aurangabad.
5. The Additional Collector, Aurangabad.
6. The District Land Acquisition Officer, Aurangabad.
7. The Chief Executive Officer, Nabi Nagar Power Generating Company Pvt. Ltd. Located at Main Gate Sasna, Nabinagar, Aurangabad.
8. The Registrar/ Secretary, The Rehabilitation and Resettlement Authority, The Campus of Collectorate, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjit Kumar, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, SC-19

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 18-07-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

2. The present writ petition has been filed for directing the respondent authorities to consider and adjudicate the case in accordance with law as filed before Land Acquisition and Resettlement Authority, Gaya in terms of proviso Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013



(hereinafter referred to as 'RFCTLARRA, 2013') [Act No. 30 of 2013] on account of the failure of the District Magistrate-cum-Collector, Gaya to refer the same under the relevant provisions of the Land Acquisition Act, 1894 or RFCTLARRA, 2013.

3. Learned counsel for the petitioner submits that admittedly the lands of the petitioner was acquired in L.A. Case No. 15 of 2009-10 and award has been prepared with the petitioner has received with objection. Counsel further submits that petitioner has filed application for reference on the point of quantum of compensation before the competent court under Section 18 of the Act but matter was not referred, thereafter petitioner has moved before this Court in CWJC No. 10046 of 2010 in which the writ petition filed by the similarly situated persons has been rejected/dismissed on 20.08.2010. Being aggrieved and dissatisfied with the said order, the said persons have preferred LPA No. 140 of 2014 and this LPA was again dismissed vide order dated 18.04.2014. Counsel further submits that in the meantime, a negotiation took place between the petitioner and other similarly situated persons with the company/authority in which they reached on certain common agenda. Counsel further submits that the said company/authority



has not applying certain common agenda, therefore, the persons who earlier moved in which the petitioner has the common interest, has also not moved further then the present petitioner with old aged person has moved separately before this Court claiming for seeking reference by this Court.

4. Learned counsel for the State opposes the prayer of the petitioner and submits that the grievances against the State for references has already been decided in CWJC No. 18253 of 2011 where the claim of all such persons having common interest were rejected and thereafter, it was affirmed in LPA also.

5. Learned counsel further submits that the relief referring this matter for reference could not be granted to the petitioner but if any individual agreement has been prepared between the petitioner and any company/authority, they may sue for the common agreement prepared between them but for reference, there is no legal remedy available to him.

6. Upon hearing the parties and going through the pleadings, one legal question has arisen here that whether the claim of the petitioner suffers from doctrine of res judicata or not? In this regard Section 11 *Explanation VI* of the Code of Civil Procedure, 1908 [Act 5 of 1908] is necessary to explain



here which are as follows:

“Section 11. Res judicata.- No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

“Explanation VI.- Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.”

7. In this view of the matter that the petitioners of CWJC No. 18253 of 2011 were litigating for all the persons having right/claim in common for themselves and others therefore, the order passed under CWJC and affirmed under LPA shall create res judicata for the petitioner and as such in



view of the Court the petitioner has no right left further and he is barred under Explanation VI of Section 11 of CPC, 1908[Act 5 of 1908].

8. Accordingly, the present writ petition is hereby dismissed with the aforesaid observation.

(Dr. Anshuman, J.)

ravishankar/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.07.2023
Transmission Date	N.A.

