

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15161 of 2018

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Anand Ranjan Singh, Son of Late Anirudh Prasad Singh, Resident of Village-
Trimuhani, Ekchari, Police Station- Kahalgawn, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Road Construction Department, Govt. of Bihar, Patna.
4. The Collector, Bhagalpur.
5. The Superintending Engineer, N.H. Division, Bhagalpur.
6. The Executive Engineer, N.H. Division, Bhagalpur.
7. The District Land Acquisition Officer, Bhagalpur.
8. The Union of India through the Secretary, Ministry of Road Transport and Highways, New Delhi.
9. The Chief Engineer, Project Zone -P-3, Ministry of Road Transport and Highways, New Delhi.
10. The Regional Officer, Ministry of Road Transport and Highways, Patna.
11. The Chairman, National Highway Authority of India, New Delhi.
12. The General Manager, National Highway Authority of India, New Delhi.
13. The Regional Officer, National Highway Authority of India, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Bindhyachal Singh, Sr. Advocate Mr. Amar Manikant, Advocate
For the State	: Mr. Sushil Kumar, G.P-22 Mr. K.K. Singh, A.C to G.P-22
For the Respondent No.10 (MoRTH)	: Mr. Anshay Bahadur Mathur, CGC

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

6 22-03-2023 Heard learned Senior counsel for the petitioner,

learned counsel for the respondent-State and learned counsel for

the National Highway Authority of India.

The petitioner has filed the instant application for the



following relief(s):

“i) For issuance of writ in the nature of mandamus or any other appropriate writ for directing the respondent authorities to provide the amount due to the petitioner as compensation for the acquisition of his land and pass an award in view of the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the "New Land Acquisition Act, 2013") and Bihar Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 (hereinafter referred to as the Bihar Land Acquisition Rules, 2014").

ii) For issuance of writ in the nature of mandamus or any other appropriate writ for directing the respondent authorities to pay interest on the amount payable to the petitioner for the land which has been acquired and is being used since 2008 without making any payment to the petitioner.

iii) For issuance of any other appropriate writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”

The land in question which is the subject matter of the instant application appertains to *Khata* no. 449, *Khesra* nos. 1875, 1877 and 1880 measuring a total area of 0.45 acres located in Thana no.44, Kahalgawn in District-Bhagalpur.



It is the case of the petitioner that in the process of construction of the Gerua Bridge located on N.H- 80, the respondent authorities encroached upon the aforesaid land of the petitioner. It is not in dispute that the project was completed in the year 2008, however, no amount of compensation was paid to the petitioner.

It further transpires from record that initially a sum of Rs.18,92,386/- was provided to the District Land Acquisition Officer, Bhagalpur for payment to the petitioner, however, the estimate having been revised from time to time, neither the award was prepared nor the amount was paid.

Taking note of all these facts, by order dated 21.2.2023, this Court directed the Chief Engineer, Road Construction Department, Govt. of Bihar, Patna (respondent no.3) and the Chief Engineer, Project Zone-P-3, Ministry of Road Transport and Highways, New Delhi (respondent no.9) to file their separate affidavits and the same have been filed.

In the second supplementary affidavit, the Chief Engineer, Road Construction Department, Govt. of Bihar, Patna in paragraph no.23 has stated as under :

“23. That since requisition for 0.45 acre of land was already made by the Department vide letter at Annexure-3 to the writ petition and now MoRT&H



has also accorded approval for payment of Tand vide letter dated 01.03.2023 Annexure-L, hence it is respectfully stated and submitted that now steps will be taken to acquire the land of petitioner measuring 0.45 acre.”

Although the supplementary counter affidavit on behalf of the Regional Officer, Ministry of Road Transport and Highways, Patna (respondent no.10) is not on record, however, the website of the Patna High Court shows filing of the same on 13.3.2023. A copy of the same has been provided by learned counsel appearing for the MoRT&H which is taken on record. Paragraph nos. 4, 5 and 6 thereof is quoted herein below for ready reference :

“4. That in pursuance of the above order dt-21-02-2023, the respondent no-3 (Chief Engineer, NH, RCD Bihar) has requested the respondent no-9 & 10 (RO, MORTH, Patna) by letter dt 27.02.2023 for giving an in principle approval for payment of compensation for 0.45 acres of land of the petitioner that has been used in construction of the approach road of Gerua Bridge on NH-80.

A Photostat copy of the letter dt-27.02.2023 is attached herewith and marked as Annexure-A to this affidavit.

5. That the respondent No-10 (RO, MORTH) has forwarded the said letter to the HQ of the Ministry, where the matter has been examined and by letter



dt-01.03.2023 following observations has been communicated to the respondent no-3 (Chief Engineer, NH, RCD Bihar):-

i. The cost estimate for the above mentioned bridge was originally sanctioned on 20.03.2002 and at that time land acquisition charges was not included in the estimate.

Subsequently, State Govt. proceeds with acquisition of land under LA Act, 1894 and not under NH Act, 1956. The demand of LA Cost of Rs. 18.92 lakhs raised by State Govt. was sanctioned in 3rd RCE (Revised Cost Estimate) of above work on 16.12.2013, however, the payment has not been made by the concerned DLAO, Bhagalpur till 08.02.2014 as the RFCTLARR 2013 Act become applicable w.e.f. 01.01.2014. The compensation becomes admissible as per the new RFCTLARR Act, 2013 in lieu of LA Act, 1894 (as RFCTLARR got incorporated in NH Act w.e.f 01.01.2015). Therefore, the disbursement of LA cost could not be done out of the earlier amount of Rs. 18.92 lakhs.

ii. The construction of bridge utilizing the land under consideration was already completed in year 2008. The present estimated cost of land acquisition is reported as about Rs. 72,21,967/-. It is also reported that earlier LA process has not completed, so fresh notifications are to be initiated under NH Act. Further revision of cost estimate can be prepared for sanction in due course of time after the land cost gets firm up by the CALA as per the fresh LA notifications to be done.

iii. In the light of the above, the cost of LA as



per the extent rules/guidelines needs to be paid following the present extent rules/guidelines to regularize the Land Acquisition process by carrying the mutation in the name of President of India through Implementation agency. However, as the LA process has not been properly implemented under NH Act, 1956, the additional cost implication may be borne by the State Govt. from the agency charges payable to the State Govt. on account of any NH work in the State.

A Photostat copy of the letter dt-01-03-2023 herewith and is attached marked Annexure-B to this affidavit.

6. That it is stated and submitted that in view of the in principle approval of the HQ, MORTH, a direction may be given to the respondent no-7 (DLAO, Bhagalpur) for initiating a fresh Land Acquisition Proceeding in terms of the NH Act 1956 read with RFCTLAR&R Act 2013 for acquisition of 0.45 acres of land of the petitioner used in construction of the approach road of Gerua Bridge on NH-80 and prepare a fresh award for payment of compensation to the petitioner within a fixed time frame.”

From the contents of the affidavits filed by the respondent as quoted herein above, it transpires that the authorities are taking steps for fresh initiation of land acquisition proceedings in terms of the National Highways Act, 1956, read with Right to Fair Compensation and Transparency



in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for acquisition of 0.45 acres of land of the petitioner used in construction of the approach road of Gerua Bridge on N.H-30 and to prepare a fresh award for payment of compensation to the petitioner.

It may be reiterated here that the facts not in dispute are that 0.45 acres of land of the petitioner was used without any acquisition proceeding. Also not in dispute is that the project was completed as far back as in the year 2008 itself. Though the respondent authorities proceed to calculate the amount of compensation as per the 2013 Act, however, at the same time they will also be required to calculate the amount of compensation payable to the petitioner for the use of his aforesaid land from the date the same was taken possession of for the project (which stands completed in the year 2008) till the date of payment of compensation.

The entire exercise as stated herein above with respect to acquisition and compensation shall be completed by the District Land Acquisition Officer, Bhagalpur (respondent no.7) within a period of six months from today. In case of any impediment which may come in way of the respondent concerned, the Chief Engineer, Road Construction Department,



Govt. of Bihar, Patna (respondent no.3) and the Regional Officer, Ministry of Road Transport and Highways, Patna (respondent no.10) will assist in sorting out the same.

The application stands disposed of with the above observations and directions.

(Partha Sarthy, J)

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