

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4489 of 2022

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Bibi Durre Shahwar, Wife of Shamsul Islam and daughter of Ziaur Rahman,
Resident of Village and P.O.-Bansbari, P.S. and District-Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue Deptt., Patna.
2. The Divisional Commissioner, Purnia.
3. The District Collector, Araria.
4. The District Land Acquisition Officer, Araria.
5. The Anchal Adhikari, Bansbari, District-Araria.
6. The East Central Railways, Danapur.
7. The D.R.M. East Central Railway, Samastipur.
8. Md. Aslam, Son of Late Sheikh Rustam, Resident of Ward No.-4, Village-Bansari, P.S. and District-Araria (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amarendra Nath Verma, Advocate
For the State	:	Mr. Rishi Raj Sinha, S.C-19
		Mr. Saurabh Kumar, A.C to S.C-19
For U.O.I	:	Mr. Kumar Sachin, Advocate
For the Respondent no.8	:	Mr. Shashi Nath Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

8 21-04-2023 Heard learned counsel for the petitioner and learned

counsel for the respondents.

The petitioner has filed the instant application for the
following relief(s):-

*“That the present application is being
filed for directing the respondents to make payment
to the petitioner for her entire residential land
acquired for broadening rail-track by the Land
Acquisition Officer, Araria (R4) arbitrarily treating
the petitioner's residential land as agricultural*



ignoring the actual nature of the land & the state-resolution (Annexure-P/2) to treat the land situate within 200 meters of the last house as residential land as well as the payment of compensation for the adjacent land of plot no. 1785 @residential land by them only; for payment of solatium. interest@9% & an additional compensation to the petitioner for the damages suffered due to the acquisition; for stopping the respondents from entertaining claim of part-payment of the petitioner's said land even against the unchallenged decree of competent civil court in her favour (An-P/1) and for all other relief/s the petitioner is found entitled to in the given facts & circumstances of the case at hand."

The case of the petitioner in brief is that the petitioner is the owner of a residential land measuring an area of 2.77 acres appertaining to Mauja Bansbari, Thana no.193, Khata no.704, Khesra no.1786. The petitioner has been paying the rent to the State and is being granted the rent receipts. He has also been issued with the land possession certificate by the revenue authorities.

It is further submitted on behalf of the petitioner that the respondent-railways decided to acquire the said land of the petitioner. However, the petitioner is not satisfied with the quantum of compensation fixed for the said acquisition. Learned counsel submits that although the owner of adjacent plot



no.1785, which was acquired for the same purpose, has been paid much higher compensation taking into account the nature of land being residential, for the similar piece of land adjacent to the said land, the petitioner has been discriminated against, hence the instant writ application for the reliefs prayed for as mentioned herein above.

Learned counsel for the respondent-State submits that only 1.27 acres of the land of the petitioner has been acquired and thus, he is entitled for compensation only for the said area. With respect to remaining 42 decimal of the land, as per the case of the respondents, the said land does not belong to the petitioner.

It is lastly submitted by learned counsel for the respondents that the petitioner has an alternate and efficacious remedy by way of section 64 of the Land Acquisition, Rehabilitation and Resettlement Act, 2013, wherein all the questions with respect to compensation etc. may be gone into and decided in reference to the Authority.

Having heard learned counsel for the parties and having gone through the materials on record, it would be necessary to quote section 64 of the Land Acquisition, Rehabilitation and Resettlement Act, 2013, which is as follows:-

“64. Reference to Authority.-(1) Any



person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award:

b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 21, or within six months from the date of the Collector's award whichever period shall first



expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.”

In the opinion of the Court, section 64 of the Act, as quoted herein above, the Authority under the Act can go into the objections raised by the petitioner which may include objections relating to measurement of the land, amount of compensation, the persons to whom it is payable besides others.

On the earlier occasion, it has been submitted by learned counsel for the petitioner that the seat of the Authority under the Act was vacant and no useful purpose will be served in referring the matter there.

Learned counsel for the respondents produces a copy of the notification contained in Memo no.449 dated 3.4.2023 issued under the signature of the Director, Land Acquisition-cum-Additional Secretary, Revenue and Land Reforms Department, Government of Bihar to show that an officer has been posted with the direction to the officer concerned to join the said post within one week.

In view of the facts and circumstances as mentioned herein above, the matter is disposed of with the liberty to the



petitioner to file an objection before the Collector, which if filed, shall be referred to the Authority concerned under section 64 of the Act to be decided at the earliest preferably within a period of six months of its reference to the Authority.

The writ application stands disposed of.

(Partha Sarthy, J)

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