

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6260 of 2023

1. Manoj Kumar Singh son of Late Harvansh Singh, Resident of Village Kurvan, P.S. Aurangabad, District Aurangabad.
2. Anuj Singh, son of Late Harvansh Singh, Resident of Village Kurvan, P.S. Aurangabad, District Aurangabad.
3. Anmol Singh, son of Late Harvansh Singh, Resident of Village Kurvan, P.S. Aurangabad, District Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Deptt. of Revenue and Land Reform, Old Secretariat, Govt. of Bihar, Patna.
2. The Director Land Acquisition, Directorate of Land Acquisition, Government 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

Appearance :

For the Petitioner/s	:	Mr. Anirudh Kumar Verma, Adv.
For the Respondent/s	:	Mr. W. A. Khan, AC to SC-25
For the Respondent no.7	:	Mr. Amaresh Kumar Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 05-09-2023 Heard learned counsel for the petitioners and learned counsel for the State.

2. Counsel for the petitioners submits that petitioners' land was acquired for the purpose of construction of Nabinagar Thermal Power, Aurangabad as a joint venture of NTPC and Indian Railways known as Thermal Power Project known as

Bhartiya Rail Baffle Corporation Limited by virtue of Gazette Notification made in the year 2007-08 under the L.A. act, 1894.

3. Counsel for the petitioners submits that the award has been prepared and award notice dated 25.01.2010 has been served upon the petitioners. Counsel submits that in the light of the said award the petitioners received the award amount under protest and filed an objection seeking reference but his matter was not referred within time.

4. Counsel further submits that the delay has been caused due to the reason that lands of nine different villages were acquired and some villagers, aggrieved with the said award, moved before this Court in CWJC No.18253 of 2011 (Annexure-2). The said litigation traveled upto Letter Patent Appeal(LPA) bearing LPA No.140 of 2014 and finally disposed off on 18.04.2014.

5. Counsel also submits that directly and subsequently, the issues involved in the present case of those other villagers, who moved in CWJC No.18253 of 2011 and thereafter moved for Letter Patent Appeal (LPA) bearing LPA No.140 of 2014 are same. Counsel submits that petitioners are waiting for the result of objection which has already been filed by them for reference. Therefore, this matter shall be referred for reference as per the law.

6. Counsel for the petitioners submits that during

pendency of CWJC No.18253 of 2011 and LPA No.140 of 2014, new acquisition act came into force and old acquisition act was repealed, therefore, petitioners seek permission that they may be permitted to file an application afresh under Section 64 of the Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act 2013 [Act No.30 of 2013] (hereinafter referred to as 'RFCTLARRA').

7. Counsel for the State submits that in this case huge delay has taken place in filing of the present case, due to which no remedy has left for the petitioners.

8. Considering the pleadings and arguments of the parties, certain points which are admitted i.e. the land of the petitioners' were covered under the Land Acquisition Act of 1894, award has been prepared under the Land Acquisition Act of 1894 and petitioners have grievances for enhancement of the award under the Land Acquisition Act of 1894. It is also admitted and pleaded by the counsel for the petitioners, that they have received award with objection and filed protest, as well as, filed application for reference.

9. By virtue of Section 114 of RFCTLARRA, the Land Acquisition Act of 1894 has been repealed by the section 114(1) of the RFCTLARRA but simultaneously Section 114(2) of the RFCTLARRA is acting as a saving clause for the person in whose

favour Section 6 of the General Clauses Act, 1897 functions. Here, in this case petitioners are the persons who come within the said category of Section 114(2) of the RFCTLARRA.

10. In this view of the matter, this Court directs the Collector, Aurangabad to consider the case of the petitioners and make the reference in accordance with law, considering both the old act and the new act, alongwith reading the provision of Section 114(2) of RFCTLARRA with the General Clauses Act, 1897.

11. It is also made clear that the decision shall be taken by the Collector, Aurangabad either on basis of objection which is already filed by the petitioners before the Collector, Aurangabad, or if that is not available then on the fresh representation filed by the petitioners, alongwith the order passed by this Court, within four weeks, the Collector, Aurangabad shall take a decision in this regard within 8 weeks thereafter.

12. With the aforesaid direction this writ petition is hereby allowed.

(Dr. Anshuman, J.)

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