

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6326 of 2020

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Ram Kumar Prasad, Son of Ishwari Lal Prasad Sah @ Ishwar Prasad resident of village - Dhanushi (Dhanukhi) Ward No. 13, P.S.- Laukaha, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Land Revenue and Rehabilitation, Government of Bihar, Patna.
2. The Principal Secretary, Department of Land Acquisition and Rehabilitation, Government of Rehabilitation, Government of Bihar, Patna.
3. The District Magistrate, Madhubani.
4. The District Land Acquisition Officer, Madhubani.
5. The Anchaladhikari, Anchal- Khutauna, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prafull Chandra Thakur, Advocate Mr. Dinesh Choudhary, Advocate
For the Respondent/s	:	Mr. Md. Khursid Alam, AAG12 Mr. Nutan Sahay, AC to AAG 12

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 23-02-2023

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

The petitioner has filed the instant application for the following reliefs:

“1. That this writ application is being filed for issuance of a writ preferably in the nature of Mandamus commanding and Respondent state to declare as home stead land instead of agricultural land as they have acquired Land of petitioner and as also directed the respondents to acquires the Land from one side instead of middle side and pay admissible amount as home



stead Land. And/Or any other relief/ reliefs for which the petitioner is found to be entitled to in the facts and circumstances of the case.”

The case of the petitioner in brief is that he is the owner of the ancestral property measuring an area of 1.180 acres pertaining to revenue village of Dhanushi, Thana no. 61 Anchal Khutauna in the District of Madhubani. He along with other members of his family are living in the house on the said piece of land which is the subject matter of acquisition by the Government for public purpose. It is the case of the petitioner that to a notice issued to his father and subsequently another notice was served on 15.5.2018 (Annexure-2) on the petitioner. It is the case of the petitioner that the said land is a homestead land but the compensation has been calculated treating the same to be an agricultural land. As such the petitioner filed a petition dated 18.7.2018 (Annexure-4) before the Collector, Madhubani, however, no order has been passed thereon. As such the instant writ application.

A counter affidavit has been filed on behalf of the respondent nos. 3, 4 and 5 wherein the facts stated in the writ application are not contradicted. However, there is no reply by the respondents as to whether the petition/representation filed by



the petitioner on 18.7.2018 (Annexure-4) before the Collector was disposed of or not.

At this stage it would be relevant to point out that section 37 of the Right to Fair Compensation and Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as 'the Act') deals as to when the award of the Collector will be final. Further section 64 of the Act deals with the provisions of reference to Authority in case any person interested who has not accepted the award by written application to the Collector, may require the matter to be referred by the Collector for the determination of the Authority.

Section 64 of the Act is being quoted hereinbelow for ready reference:

“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) 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."



Having heard learned counsel for the parties and taking into consideration the materials on record, this writ application is disposed of with the direction to the petitioner to file a fresh petition along with a copy of this order for reference by the Collector to the Authority in terms of section 64 of the Act. On the fresh petition along with the earlier petition/ representation dated 18.7.2018 (Annexure-4) being filed by the petitioner, the Collector, Madhubani (respondent no.3) shall proceed to decide the same in accordance with law in terms of section 64 of the Act as quoted hereinabove.

The respondent authorities including the authority under the Act will decide the case of the petitioner within a period of three months from the date of filing of the representation by the petitioner before the respondent no.3. In case any amount is found payable, the instant order will not come in way of the respondent authorities in payment of the amount to the petitioner, which would be subject to the final determination/compensation found payable in accordance with law.

Bibhash

AFR/NAFR	
CAV DATE	
Uploading Date	28.2.2023
Transmission Date	

(Partha Sarthy, J)

