

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6524 of 2020

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1. Shiv Nandan Prasad, Son of Mahesh Mahto, Near Isha I.T.I., Khankhura Tarawana, P.O.-R.S. Gaya, P.S.-Delha, District-Gaya.
 2. Harinandan Prasad, Son of Mahesh Mahto, Near Isha I.T.I., Khankhura Tarawana, P.O.-R.S. Gaya, P.S.-Delha, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms and Revenue Department, Govt. of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The District Land Acquisition Officer, Gaya.
4. The Sub Divisional Officer, Gaya Sadar, Gaya.
5. The Circle Officer, Gaya Sadar, Gaya.
6. The Principal Secretary, Indian Railway, Govt. of India.
7. General Manager Coordination, Dedicated Freight Corridor Corporation of India Limited, Kolkata Unit

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Md. Waliur Rahman, Advocate Mr. Vishwa Ranjan Choudhary, Advocate Mr. Nishant Kumar Sinha, Advocate
For the State	:	Mr. Raj Kishore Roy, G.P-18 Ms. Perna Anand, A.C to G.P-18
For the Resp. No.7	:	Mr. Tiwari Shweta Ketu, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 11-05-2023

1. Heard learned counsel for the petitioners, learned counsel for the State of Bihar and learned counsel for the Dedicated Freight Corridor Corporation of India Limited ('DFCCIL' in short).

2. The petitioners have filed the instant application for the following relief(s):-



“(i) For a direction upon the respondent authority to pay the adequate compensation pursuant to the acquisition made the raiyati land of petitioner belonging to Khata No. old 330/new 817, Khesra No. 2083(Old)/2770 new, Khesra No. 2086(Old)/2771 (New) a total area 0.4344 Acres for D.F.C.C. Gaya (Govt. of India, Ministry of Railway) under letter No. 3143 dated 01.04.2019 of Mauza Kujapi, Thana No.- 186.

(ii) For a direction to the respondent authority to pay the compensation with upto date interest and other ancillary.

(iii) For direction to the state authority to pay adequate compensation as penalty for non-payment of his ligihmate claim for undue delay.

(iv) For any other relief/reliefs for which the petitioners are entitled for in the facts and circumstances of the case.”

3. The land in question which is the subject matter of the instant writ application is an area of 1 *bigha* 8 *kathas* appertaining to *Khata* no.330 (old)/817 (new), *Khesra* no. 2083 (old)/ 2770 (new) in *Mauza* and *Thana* Kujapi.

4. It is the case of the petitioners that the petitioners got 8 *kathas* of the aforesaid land through *Hukumnama* by the ex-land lord and 1 *bigha* through registered sale deed, however, after abolition of *Zamindari*, the name of the grandfather of the petitioners was not recorded in the revisional survey.



Consequently, the petitioner no.2 and others filed title suit being Title Suit no.14 of 1992/134 of 1987 in the Court of learned Sub-Judge-III, Gaya for declaration of the title as also declaration to the effect that the entry made in the revisional survey is wrong and inoperative and to restrain the defendants from disturbing the possession of the plaintiffs. By judgment dated 29.9.1994 (Annexure-1) the said suit was decreed in favour of the plaintiffs (petitioner herein).

5. Learned counsel for the petitioners submits that inspite of the said judgment and decree passed in the title suit wherein the State of Bihar and others were the defendants, necessary corrections were not made in the government records. The land in question which was the subject matter of the title suit decreed in favour of the petitioners was acquired by the respondent- DFCCIL, however, the compensation was not paid to the petitioners. Hence the instant writ application for the prayer made as quoted herein above.

6. A counter affidavit has been filed on behalf of the State respondents (respondent nos.2 to 5) and a separate counter affidavit on behalf of the DFCCIL (respondent no.7). Although, the State respondents have tried to raise objections on the title of the petitioners over the suit land, however, they do not deny the genuineness of the judgment and decree passed in the title suit



referred to herein above with respect to the suit land in which the State of Bihar were themselves a party.

7. The DFCCIL in their counter affidavit have stated that the land in question being a government land, notification under section 20A of the Railways Act was published on 16.1.2015 and under section 20E on 2.12.2015. In view of the same being a government land, neither the notification under section 20E nor the award for the same has been prepared. As such, it is submitted that there is no question of payment of compensation to the petitioners. It may be mentioned here itself that the DFCCIL also in their counter affidavit have not disputed the judgment and decree with respect to the land in question in favour of the petitioners.

8. Having heard learned counsel for the parties and taking into consideration the averments in the writ application, the facts not in dispute are that 1 *bigha* 8 *kathas* of land over which the petitioners acquired right and title as described in the writ petition as also herein above was the subject matter of the title suit on account of the incorrect revisional survey entry. In the said title suit, the State of Bihar was a party and the same by judgment dated 29.9.1994 was decreed in favour of the petitioners. Thus, in the opinion of the Court, the petitioners will be entitled for payment of compensation on acquisition of the said land.



9. It is also not in dispute that inspite of the said judgment and decree having been passed in the petitioners' favour on 29.9.1994, the respondent-State and its authorities did not take steps for correction in the records and entry of name of the petitioners which consequently led to the compensation not being paid to the petitioners.

10. At this stage, it would be relevant to quote section 20D of the Railways Act, 1989 herein below for ready reference:-

“20-D. Hearing of objections, etc.-(1) Any person interested in the land may, within a period of thirty days from the date of publication of the notification under sub-section (1) of section 20-A, object to the acquisition of land for the purpose mentioned in that sub-section.

(2) Every objection under sub-section (1), shall be made to the competent authority in writing, and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation.- For the purposes of this sub-section, "legal practitioner" has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961). (3) Any order made by the competent authority under sub-section (2) shall be final.”



11. Section 20D of the Railways Act provides that any person interested in the land may, within a period of thirty days from the date of publication of the notification under section 20A(1), object to the acquisition of land for the purpose mentioned in that sub-section.

12. At this stage, learned counsel for the DFCCIL submits that some difficulties may arise in view of the time provided under section 20E of the Railways Act.

13. This Court may observe that the title of the petitioners having been affirmed in the title suit, what is not in dispute is the petitioners entitlement of adequate and proper compensation for their land acquired by the respondent authorities. The petitioners not having got an opportunity because of the inaction of the respondent-State and its authorities when they did not proceed to correct their records in view of the judgment in favour of the petitioners in the title suit, the petitioners cannot be held responsible for the same. The only option available with the respondent authorities are either to pay adequate and complete compensation to the petitioners as per rates available today in accordance with the law of compensation applicable as on date or else to restore the land of the petitioners within a fix period.

14. On certain queries being put by the Court it transpires that the project of the Railways for which the land in



question was acquired along with the other plots has proceeded to a great extent and is about to be completed. It is for this reason the Court is not proceeding in giving directions to the respondents to hand over possession of the land in question to the petitioners.

15. In view of the facts and circumstances of the case, it is directed that the petitioners will file an application under section 20D of the Railways Act which will only be for the purpose of computation and determination of the compensation to the petitioners for their land acquired by the respondent authorities. The same shall be done by the respondent authorities within a period of 3 months from the date of filing of the application by the petitioners and the compensation shall be paid within a period of 4 months from the date of its decision.

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

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
Uploading Date	16.05.2023
Transmission Date	N/A

