

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18878 of 2015

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Kumar Avinash son of Navi Kumar Singh, Resident of Village- Kunjbanna,
Post Office and Police Station- Pirpainty, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
3. The Director, Land Acquisition, Govt. of Bihar, Patna.
4. The Collector, Bhagalpur.
5. The Land Acquisition Officer, Bhagalpur.
6. The NTPC Ltd. through its Chairman-cum-Managing Director, NTPC Bhawan, SCOPE Complex, Institutional
7. The Kahalgaon Super Thermal Power Project through its General Manager, NTPC Kahalgaon, District- Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Syed Masleh-Uddin Ashraf , Advocate
For the Respondent/s	:	Mr. Aag15- Yogendra Pd. Sinha
For the NTPC	:	Mr. Amaresh Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 05-12-2023 Heard learned counsel for the parties.

2. This writ application has been filed for issuance of a writ of mandamus directing the respondent authorities to pay the amount of compensation payable to the petitioner for acquiring his land for construction of 2 X 660 M.W. thermal power stations in terms the provision of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and not in terms of the Land Acquisition Act, 1894.



3. It is the contention of the petitioner that 1.07 acres land of the petitioner was acquired by the respondents in Case No. 25/10-11 corresponding to Mouza Hirankol, Part I compensation of which has already been paid to the petitioner under protest in the year 2013.

4. Learned counsel for the State submits that the entire land acquisition proceeding including preparation of award and payment of the compensation was completed prior to coming into force of the new land acquisition act which has come in force on 01.01.2014. It is submitted by counsel for the State that petitioner is not entitled to get compensation in terms of the new land acquisition act as Section 24 of the The Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 act reads as follows:

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,—

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in



sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

5. Having heard the submissions made on behalf of the parties and perused the materials available on record, it is apparent that it is not in dispute that the entire land acquisition proceeding was completed, award was prepared and payment of compensation was made to the petitioner much prior to 01.01.2014. Learned counsel for the State is right in his submission that petitioner is not entitled to get compensation in terms of the new land acquisition act.

6. In that view of the matter, this Court is of the opinion that this writ petition is bereft of merit.

7. This writ petition is, accordingly, disposed of with liberty to the petitioner to seek remedy before the appropriate



forum as may be available to him in accordance with law.

8. In the event, petitioner approaches before the appropriate forum, the concerned authority shall dispose of the matter after hearing the parties in accordance with law.

9. It goes without saying that if any question of limitation arises before the competent authority, the same shall be considered taking into consideration the fact that the petitioner was pursuing the issue before this Court under Article 226 of the Constitution of India.

10. This writ petition is disposed of with the aforesaid observations.

(Prabhat Kumar Singh, J)

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