

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7517 of 2015

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Kusum Bhuwania W/o Late Krishna Kumar Bhuwania Resident of Mkohalla
M.P. Dewadi Road, near Gousala, P.S. Kotwali, District Bhagalpur

... .. Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Revenue and Land Reforms Department,
Government of Bihar, Patna.
3. The Deputy Secretary, Revenue and Land Reforms Department,
Government of Bihar, Patna.
4. The Joint Secretary, Revenue and Land Reforms Department, Government
of Bihar, Patna.
5. The Director, Land Acquisition Department, Government of Bihar, Patna.
6. The Commissioner, Bhagalpur Division, Bhagalpur.
7. The Collector, Banka.
8. The Additional Collector, Revenue and Land Reforms, Banka.
9. The District Land Acquisition Officer, Banka. Respondents

with

Civil Writ Jurisdiction Case No. 3614 of 2015

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Udit Prasad Mandal Son of Late Singheshwar Mandal resident of Mohalla -
Gandhi Nagar, Garnia, P.O. Samukhiya More, P.S. Banka, District - Banka

... .. Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Revenue and Land Reforms, Department,
Government of Bihar, Patna
3. The Deputy Secretary, Revenue and Land Reforms Department,
Government of Bihar, Patna
4. The Joint Secretary, Revenue and Land Reforms Department, Government
of Bihar, Patna
5. The Director, Land Acquisition Department, Government of Bihar, Patna
6. The Commissioner, Bhagalpur Division, Bhagalpur
7. The Collector, Banka
8. The Additional Collector, Revenue and Land Reforms, Banka
9. The District Land Acquisition Officer, Banka Respondents

with

Civil Writ Jurisdiction Case No. 3964 of 2015

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Ramautar Bhuwania Son of Late Moolchand Bhuwania resident of Mohalla -
Aliganj, Ward No. 13, P.S. Banka, District – Banka Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Revenue and Land Reforms Department,
Government of Bihar, Patna



3. The Deputy Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna
4. The Joint Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna
5. The Director, Land Acquisition Department, Government of Bihar, Patna
6. The Commissioner, Bhagalpur Division, Bhagalpur
7. The Collector, Banka
8. The Additional Collector, Revenue and Land Reforms, Banka
9. The District Land Acquisition Officer, Banka Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 7517 of 2015)

For the Petitioner : Mr. Ganpati Trivedi, Senior Advocate
Mr. Rajiv Kumar Singh, Advocate

For the Respondent/s : Mr. Prem Ranjan Rai, AC to SC 7

(In Civil Writ Jurisdiction Case No. 3614 of 2015)

For the Petitioner : Mr. Ganpati Trivedi, Senior Advocate
Mr. Rajiv Kumar Singh, Advocate

For the Respondent/s : Dr. Shobha Choubey, AC to GP 19

(In Civil Writ Jurisdiction Case No. 3964 of 2015)

For the Petitioner : Mr. Ganpati Trivedi, Senior Advocate
Mr. Rajiv Kumar Singh, Advocate

For the Respondent/s : Mr. Kamlesh Kishore, AC to SC 12

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 01-12-2023 Heard learned counsel for the petitioners and the State.

2. Writ petitions have been filed for directing the respondents to quash land acquisition proceeding of Land Acquisition Case No. 39 of 2012 initiated for the purpose of acquisition of 3.2434 acres of land including 1.7170 acres of land belonging to these petitioners which has been lapsed under the provisions of section 11A of the Land Acquisition Act, 1984. Petitioners have also prayed for a direction to the respondent authorities to hand over possession of the land which has illegally and arbitrarily been taken.

3. It is the case of these petitioners that for the construction of police line, their land, as mentioned in paragraph 5 of the writ petitions, measuring total area, i.e.,



3.2434 acres, were acquired vide notification dated 31.10.2012 (annexure 1). Thereafter, following the due procedure of acquisition and on considering the nature of land as Do Fasla, Rs.1,47,27,348/- was approved/sanctioned by the Divisional Commissioner, Bhagalpur (annexure 4). Petitioner received 90% of the total amount of award.

4. Learned counsel for the State submits that the petitioners after receiving 90% of the award amount, has filed these writ petitions disputing the nature of land to be commercial in place of Do Fasla/agricultural land, which is not sustainable in the eye of law as petitioners have already received amount of compensation. However, petitioners are entitled to get adequate compensation in accordance with the law and the concerned authorities are also ready to do so, provided they produce documents with respect to their right and title over the land in question. He submits that in view of provisions contained in section 64(1) of the 'Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013', matter is required to be heard by the District Magistrate (respondent no.3) for proper assessment of the compensation amount.

5. Section 64 of the Act is reproduced herein below for easy 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.”

6. Learned counsel for the petitioners does not controvert the submission of the State counsel.

7. In the facts and circumstances of the case, these writ petitions are disposed of with a direction to the petitioners to file representation before the District Magistrate, Banka (respondent no.7) along with all the relevant documents in support of the claim, within a period of six weeks from today.

8. In the event, such representation is filed by the petitioners, respondent no. 7 shall examine claim of the petitioners and pass a reasoned and speaking order in accordance with law after hearing the parties within a further period of six months.

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 petitioners were pursuing the issue before this Court.

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(Prabhat Kumar Singh, J)

