

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8570 of 2022

1. Shree Bhagwan Singh Son of Late Baljee Singh Resident of Village- Jagdishpur Bhadai Bathan, Post Office and Police Station- Jagdishpur, District- Bhojpur.
2. Maya Devi Wife of Vijay Shanker Pandey Resident of Village- Ward No.- 6, D.M. Road, Post Office and Police Station- Jagdishpur, District- Bhojpur.
3. Brajendra Nath Tiwari Son of Kashi Nath Tiwari Resident of Village- Murar, Post Office and Police Station- Murar, District- Buxar.
4. Krishna Kumar Singh Son of Late Balajee Singh Resident of Village- Jagdishpur Bhadai Bathan, Post Office and Police Station- Jagdishpur, District- Bhojpur.
5. Raj Kumari Devi Wife of Prashuram Singh Resident of Village- Jagdishpur Bhadai Bathan, Post Office and Police Station- Jagdishpur, District- Bhojpur.
6. Soni Devi Wife of Sunil Kumar Gupta Resident of Village- Jawahar Tola, Post Office and Police Station- Nawada Ara, District- Bhojpur.
7. Shyam Bihari Mishra Son of Late Vishwanath Mishra Resident of Village- Parsaunda, Post Office and Police Station- Jagdishpur, District- Bhojpur.
8. Kailash Bihari Mishra Son of Late Vishwanath Mishra Resident of Village- Parsaunda, Post Office and Police Station- Jagdishpur, District- Bhojpur.
9. Uma Shankar Mishra Son of Late Vishwanath Mishra Resident of Village- Parsaunda, Post Office and Police Station- Jagdishpur, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Secretary Land Acquisition and Land Reforms Department, Government of Bihar, Patna.
4. The District Magistrate-cum- Land Acquisition Officer Bhojpur.
5. The Additional Collector Bhojpur Ara.
6. The Land Acquisition Officer Bhojpur.
7. The Circle Officer Jagdishpur, Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gopal Govind Mishra, Adv. Mr. Ashutosh Kumar, Adv.
For the Respondent/s	:	Mr. Md. Khurshid Alam, (AAG-12)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT
Date : 18-07-2023

Heard learned counsel for the petitioners and learned counsel for the State.

2. Learned counsel for the petitioners submit that the land of the petitioners have been acquired under the provisions 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 ‘the Act of 2013’).

3. Learned counsel for the petitioners submit that the process of acquisition of the land was made for the construction of Sub-Divisional Civil Court, Jagdishpur and the residential quarter for Judicial Officers at Jagdishpur in Bhojpur District in the year, 2021.

4. Learned counsel for the petitioners submit that the notification under Section 11(1) of the Act of 2013 has been made in the newspaper dated 03.06.2021. The notification under Section 18 of the Act of 2013 was made on 23.09.2021 and notification under Section 19(1) of the Act of 2013 has been made on 01.10.2021.

5. Learned counsel for the petitioners further submit that within 15 days from the initial notification on 03.06.2021, the petitioners have filed their objections on 09.06.2021 as per

Section 15 of the Act of 2013.

6. Learned counsel for the petitioners further submit that under statute, the Collector is bound to hear on the objection filed by the petitioners but reasons best known to him, no order was passed. An award has been prepared in violation of Section 15 of the Act of 2013.

7. Learned counsel for the petitioners submit that subsequent notification has been made on 04.10.2021 under Section 21(2) of the Act of 2013 against the said notification also, the petitioners have filed objection on 20.10.2021 which is Annexure-13. On the said objection also, no decision was taken by the District Magistrate-cum-Land Acquisition Officer, Bhojpur.

8. Learned counsel for the State filed his counter-affidavit and submits that the present writ petition has been filed for compensation and re-calculation of award to the petitioners in the light of nature of land treating it as residential in view of the reports submitted by the District Measurement Committee as well as the Government M.V.R. and registered deed executed in the Office of the Sub-Registry Office, Jagdishpur.

9. Learned counsel for the petitioners submit that separate notices were issued to the claimant under Section 37(2) of the Act of 2013 to receive the amount but they have not

turned up and as such, the remedy lies to the petitioners under Section 64 of the Act of 2013, if they have objection on the said award amount by way of reference.

10. In the light of the submissions made between the parties and upon perusal of record and the position of law, a legal question has arisen here that:

“whether an award which has been prepared without compliance of Section 15 of the Act of 2013 is valid and sustainable in the eye of law or not?”

11. Upon the bare perusal of the records of this case, it is crystal clear that initial notification has been made on 03.06.2021 and objection has admittedly filed on 09.06.2021 but respondent Collector sat over the matter, whereas the contention of law under Section 15 of the Act of 2013 are as follows:

“15. Hearing of objections.—(1) Any person interested in any land which has been notified under sub-section (1) of Section 11, as being required or likely to be required for a public purpose, may within sixty days from the date of the publication of the preliminary notification, object to—

(a) the area and suitability of land proposed to be acquired;

(b) justification offered for public purpose;

(c) the findings of the Social Impact Assessment report.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any person authorised by him in this behalf or by an Advocate and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 11, or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him along with a separate report giving therein the approximate cost of land acquisition, particulars as to the number of affected families likely to be resettled, for the decision of that Government.

(3) The decision of the appropriate Government on the objections made under sub-section (2) shall be final.”

12. In the opinion of the Court, Section 15 of the Act of 2013 is the mandatory provision of law which cannot be ignored by the Collector of the district who has to hear the objection and if, he shall proceed for preparation of award

without hearing the objection, this award has no value in the eye of law and hence, award prepared following Section 11(1) of the Act of 2013 notification dated 03.06.2021 is hereby set aside.

13. The District Magistrate-cum-Land Acquisition Officer, Bhojpur is directed to pass firstly objection on the said petition and then only proceed for preparation of the award on the basis of notification under Section 11(1) of the Act of 2013 dated 03.06.2021. This process has to be completed within six months.

14. With this observation, the present writ application stands allowed.

(Dr. Anshuman, J.)

sadique/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.07.2023
Transmission Date	NA