

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1693 of 2018

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Jaimala Kunwar @ Jai Mala Devi Wife of late Om Jee Singh Resident of
Village- Jamhour, P.S. Jamhour, Distt. Aurangabad.

... .. Petitioner/s

Versus

1. The Union of India
2. Railway Department, Ministry of Rail New Delhi Govt. of India.
3. East Central Railway Zone Railway Kolkatta West Bengal.
4. State of Bihar through Principal Secretary, Revenue and Land Reform Department, Government of Bihar, Patna.
5. District Magistrate Aurangabad Collectorate Compound Aurangabad, Bihar.
6. Competent Officer Cum District Land Acquisition Officer Aurangabad.
7. Project Manager, Rail Project freight corridor, Construction Corporation, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shiopujan Singh, Advocate
		Mr. Mukesh Kumar Singh, Advocate
For the Respondent No.7:		Mr. Ashok Kumar Kesari, Advocate
For the UOI	:	Mr. Ravinder Kumar Sharma, CGC
		Mr. A. K.Pandey, Advocate
For the State	:	Mr. Ram Shankar Prasad, A.C. to G.P.14

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

8 22-03-2023 Heard learned counsel for the parties.

The petitioner has filed the instant application for the
following relief(s):

“That this is an application to pass
appropriate writ or writs, order or orders, direction or
direction in the nature of Mandamus directing upon the
respondents to pay the valuation amount of the petitioner
which has been taken for development of East Railway at
Jamhour Railway Station under section 20E of the
Railway Act 2008 in connection with land Khata no.33



Khesra No.398 PS no.105 area 0.980 Acres in case no.1/16 Khata No.32 Khesra No.399 P.S no.105 area 0.1800 acres in case no.1/2016 and Khata no.230 Khesra No.400 PS no.105, area 0.1100 Acre of village-Jamahour, PS Jamhour, District Aurangabad.”

The facts giving rise to the instant application is that the land of the petitioner which is subject matter of the instant application was acquired under the provisions of the Railways Act.

The grievance of the petitioner is on the valuation/amount of compensation paid by the respondent authorities specially those by the respondent no.7 and as such, the instant writ application for the prayer quoted herein above.

Bereft of unnecessary details, the relevant facts in brief are that the respondent authorities for acquisition of land under the Railways Act, 1989 came out with notifications. The declaration of acquisition contained the details of the land to be acquired. The nature of the petitioner's land was declared as agricultural. No objection was filed. It further transpires that a five members committee was constituted by the Collector which submitted its report on 6.3.2018.

It is the case of the respondents that although the nature of the petitioner's land was agricultural, however the



competent authority erroneously interpreting the word 'undeveloped' to be 'residential', the District Land Acquisition Officer erroneously declared his award on 28.3.2018 showing the nature of land to be residential. An application was filed by the Corporation before the competent authority. Against the letter dated 10.5.2018, being aggrieved, the Dedicated Freight Corridor Corporation Ltd. (DFCCL) filed an arbitration case stating therein about the error committed by the competent authority. The case was numbered as Arbitration Case no.89 of 2018. The Corporation also approached the Collector, Aurangabad, who sent the matter before the Central Estimate Committee which after inspection vide its order dated 3.8.2018 declared the land to be agricultural.

It is further undisputed case of the parties that in the meantime, in the Arbitration Case no.89 of 2018, the counsel for the DFCCL and the competent authority appeared, were heard and order dated 19.2.2020 was passed. Subsequent thereto, the District Land Acquisition Officer reviewed his award on the basis of the nature of the petitioner's land vide notification dated 20.2.2021. The order of the Arbitrator dated 19.2.2020 was communicated to the DFCCL, the award was accepted and accordingly the competent authority-cum-District Land



Acquisition Officer, Aurangabad revised the individual award. After revision, a total amount of Rs.60,02,360/ was paid to the petitioner in her account through RTGS on 1.12.2019.

At the outset, learned counsel appearing for the DFCCCL has raised an objection to the effect that in view of section 20F(6) and (7) of the Railways Act, 1989, the instant application would not be maintainable.

Having heard learned counsel for the parties and taking into consideration the materials on record, it transpires that the petitioner is affected by the valuation of the land done by the respondent authorities and the amount of compensation paid to the petitioner. It is not in dispute that the matter has been decided by the Arbitrator.

Further section 20F(6) and (7) of the Railways Act reads as follows:

“20F. Determination of amount payable as compensation.-

(6) If the amount determined by the competent authority under sub-section (1) or as the case may be, sub-section (3) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government in such manner as may be prescribed.

(7) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996



(26 of 1996) shall apply to every arbitration under this Act.”

From reading of the above provisions, it is clear that in case, the amount determined by the competent authority under sub section (1) is not acceptable to either of the parties (the petitioner herein in the instant case) on an application of either of the parties, the amount is to be determined by the Arbitrator to be appointed by the Central Government. Sub-section (7) further provides that provisions of the Arbitration and Conciliation Act, 1996 will apply to every arbitration under this Act.

It is not in dispute that in the instant application an Arbitrator was appointed and has given the award according to which the payment has been made in the account of the petitioner, as stated herein above.

In case any of the parties including the petitioner is affected by the award of the Arbitrator, the only course would be to challenge the same in accordance with the provisions of the Arbitration and Conciliation Act and not in a writ jurisdiction under Article 226 of the Constitution of India.

In view of the facts and circumstances of the case, the instant application is dismissed as not maintainable.



Liberty is granted to the petitioner to challenge the award, if so advised, in accordance with law in view of the observations made herein above.

(Partha Sarthy, J)

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