

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.432 of 2018

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Maharajo Devi wife of Late Sarju Prasad Singh, resident of Village-
Kulhariya, P.S. Koilwar, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar.
2. The Commissioner, Patna.
3. The Collector, Bhojpur at Ara.
4. The Addl. Collector, Bhojpur at Ara.
5. The Land Reform District, Bhojpur at Ara.
6. The District Land Acquisition Officer, Bhojpur at Ara.
7. The Sub- Div. Magistrate cum- Addl. Land Acquisition Bhojpur at Ara.
8. The Circle Officer, Koilwar Circle, Koilwar, District- Bhojpur.
9. The Circle Inspector, Koilwar Circle, Koilwar, District- Bhojpur.
10. The Halka Karmchari, Koilwar Circle, Koilwar, District- Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamlesh Kumar, Advocate
For the Respondent/s : Mr. Subhash Chandra Yadav -GP15

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

13 28-04-2023 Heard learned counsel for the petitioner and learned
counsel for the respondents.

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

*“i. For the quashing of entire land
acquisition proceeding by which land is being
acquired for highway bridge and State Highway
(from Babura to Dorigunj) in Mauza Dhanriya,
Revenue Thana 133 in District of Bhojpur in non
compliance of the provision under section 5A and
section 9 in pursuant to section 4 & 9 of the land*



acquisition Act 1894.

ii. Further quashing of the said proceeding non compliance of the provision of section 9 in perusing to the declaration under section 6 as published on 6.12.2012 in daily news paper under L.A. Act 1894.

iii. Further to declare that the land acquisition proceeding initiated under L.A. Act 1894 is lapsed on the ground in terms of section 24 of the New Act 2013 as the Right to Fair compensation and Transparency in land Acquisition Rehabilitation and Resettlement Act, 2013. Hereinafter short referred as R.F. C.T. L.A. R.R. Act 2013 and still till date physical possession of the land in question has not been taken nor the compensation has been paid to the petitioner by the respondent.

iv. To declare that quantum of award has been made under either old or new Act is invalid in non compliance of provision of L.A. Act 1894.

v. After the quashing of entire acquisition proceeding, direction be given to the respondent Authorities to initiate the fresh proceeding for the land in question under FCTLARR Act 2013 or to calculate and to determine the quantum of Award for the land in question accordance with the provision laid down under sec. 26 to 30 of the new Act 2013 or w.e.f. 01.01.2014 to the petitioner as so he submitted representation earlier to the respondents.

vi. Any other relief/ reliefs be granted to the petitioner as so he is entitled in eye of law.”

The case of the petitioner in brief is that the land



appertaining to Khata no.1194, Plot no.375 in Revenue Thana no.133 Mauja Dhandiha measuring an area of 0.18 acres was purchased by the husband of the petitioner namely Sarju Prasad Singh (since deceased) on 24.4.2003 by two separate registered sale deed nos.3649 and 3650 from Most. Shanta Singh wife of Late Harivansh Singh. The petitioner's husband came in possession thereof, started paying rent and was granted rent receipts. Some of the rent receipts have been brought on record by way of annexures to this writ application.

Learned counsel for the petitioner submits that after a long period, it transpires that the respondent authorities had issued a notification in the year 2012 for acquisition of the land in question. On further enquiries, the petitioner found that even the award had been prepared on 6.6.2016 (Annexure-2) in favour of dead persons and not in favour of the husband of the petitioner or the petitioner who are the real owners.

In response, learned counsel for the respondent-State submits that the land was acquired under the urgency clause under section 17 of the Land Acquisition Act, 1894. Subsequent to coming of the RFCTLARR Act 2013, the compensation was determined as per the said 2013 Act. The details of the plot being acquired was mentioned in the notification under section



4 and the declaration under section 6. The petitioner was always free to file objection within 30 days from the date of the said publication, however, none was filed. Learned counsel further submits that the petitioner has an alternate and efficacious remedy of filing his objection which may be referred to and decided by the authorities as provided under section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, material on record and the submissions made, the Court finds substance in the submission made on behalf of the respondents. From the contentions raised by the petitioner, it is evident that the dispute is with respect to non-payment of the compensation inspite of the petitioner being the original owner of the land in question which was acquired and thus it would come under the dispute as to 'the persons to whom it is payable' as used in section 64 of the 2013 Act.

In view of the above facts and circumstances of the case, this writ application is disposed of with liberty to the petitioner/heir of Late Sarju Prasad Singh to file an objection within a period of two months from today before the Collector



and on the same being filed, the same shall be referred to the Authority who shall decide the same under section 64 of the 2013 Act within a period of six months from the date of filing of the same by the petitioner/heir of Late Sarju Prasad Singh.

This writ applications stands disposed of with the above observations and directions.

(Partha Sarthy, J)

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