

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15734 of 2018

1. Bindeshwari Singh Son of Late Uma Shankar Singh.
2. Bablu Singh, Son of Late Chandrama Singh.
3. Pummy Devi, Wife of Sri Raghvendra Pratap Singh.
4. Lalan Singh, Son of Late Ram Kuer Singh.
5. Ram Sakal Singh, Son of Late Permeshwar Singh.
6. Lal Muni Singh, Son of Late Tufani Singh.
7. Rajbansh Singh, Son of Late Sant Singh.
8. Ajay Kumar Singh, Son of Late Kripa Shankar Singh.
9. Nathuni Singh, Son of Late Ram Briksh Singh.
10. Kalawati Kuer, Wife of Late Ram Lochan Singh.
11. Akhilesh Kumar Singh, Son of Late Ram Sharan Singh.
12. Deenbandhu Kumar Singh, Son of Late Ram Niwas Singh.
13. Sheorati Kuer, Wife of Late Ramayan Singh.
14. Sheo Sharan Sah, Son of Late Antu Sah.
15. Daw Singh, Son of Faujdar Singh.
16. Vijay Kumar Singh, Son of Sri Raj Narayan Singh.
17. Sheo Bali Singh, Son of Late Hanuman Singh.
18. Reshma Devi, Wife of Nathuni Singh Yadav.
19. Chandra Shekhar Singh, Son of Late Paras Nath Singh.
20. Shyam Adhar Singh, Son of Late Parikha Singh.
21. Jodhan Singh, Son of Late Kedar Singh.
22. Hari Bansh Singh, Son of Late Nathuni Singh.
23. Ram Kumar Singh, Son of Late Suba Singh.
24. Aliyar Singh Yadav @ Aliyar Yadav, Son of Late Kunwar Singh.
25. Birendra Singh, Son of Nand Kishore Singh.
26. Jitendra Kumar, Son of Rang Bahadur Singh.
27. Kanhaiya Singh, Son of Late Ram Adhar Singh.
28. Dudheshwar Singh, Son of Late Markandey Singh.
29. Ramjee Singh, Son of Late Dhanushdhari Singh.
30. Deenanath Singh, Son of Late Dhiraja Singh.
31. Vijay Shankar Singh, Son of Late Kameshwar Singh.
32. Triveni Singh, Son of Late Jagarnath Singh.
33. Narendra Pratap Singh, Son of Late Kamala Prasad Singh.
34. Vijay Bahadur Singh, Son of Late Bachchan Singh.
35. Pyari Kuer, Wife of Late Jiut Yadav.



36. Kalawati Kuer, Wife of Late Sarva Nath Singh.
37. Sheo Murat Yadav, Son of Late Sheo Kumar Yadav.
38. Kamala Pati Singh, Son of Late Hanuman Singh.
39. Rama Shankar Singh, Son of Late Mahendra Singh,
All resident of Village- Barej, Police Station- Mohania, Anchal- Mohania,
District- Kaimur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Revenue Department,
Government of Bihar, Patna
2. The Chief Project Manager, Dedicated Freight Corridor Corporation of India
Limited, Varanasi.
3. The Arbitrator cum Divisional Commissioner, Patna Division, Patna.
4. The District Magistrate District Kaimur at Bhabua. null null
5. The Competent Authority cum District Land Acquisition Officer, District-
Kaimur at Bhabua.
6. The Circle Officer, Mohania, District- Kaimur at Bhabua.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Pushkar Narain Shahi, Sr. Advocate Ramchandra Singh Abhya Kumar, Advocates
For the State	:	Mr. Mukul Prasad, AC to GP 18
For the Respondent no. 2:	:	Mr. Ashok Kumar Keshari, Sr. Panel Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
Date : 24-03-2023

Heard learned senior counsel for the petitioners, and
learned counsel for the respondents.

The petitioners have filed the instant application for
the following relief(s):

“That this is an application for issuance of writ in the
nature of Mandamus or any other writ or writs,
direction or directions to the Respondents, the
competent authority cum District Land Acquisition
Officer of Kaimur District to prepare an "Award" in



view of the order dated 22.08.2015 passed by the Arbitrator-cum-Divisional Commissioner, Patna and as well as for issuance to the Respondents to pay the enhanced amount of the award along with reasonable compensation and compound interest thereof.”

Although initially the instant writ application was filed by the petitioners for a direction to the respondent District Land Acquisition Officer, Kaimur at Bhabua to prepare an award in view of the order dated 22.8.2015 passed by the Arbitrator-cum-Divisional Commissioner, Patna, during pendency of the instant application, the Dedicated Freight Corridor Corporation of India Limited, Varanasi (‘DFCCIL’ in short) for reasons as stated in detail in the various counter affidavits filed decided not to proceed with the acquisition of the land of the petitioners. Finally the Railway Board vide extraordinary gazette notification dated 6.2.2023 (Annexure-L) to the third supplementary counter affidavit filed on behalf of the DFCCIL denotified the land of the petitioners herein.

It is the case of the petitioners that the land of the petitioners was in the possession of the respondent DFCCIL and as such the petitioners should be paid rent for the period that they were not in possession of the land because of the action of the respondent DFCCIL.

In response, it is submitted by learned counsel



appearing for the respondent DFCCIL that it has been the categorical and consistent case of the respondent DFCCIL that it was only because of the hopelessly delayed and lingering in completion of the whole project, the same being an interstate project and the petitioners keeping forceful physical possession of the land in question to themselves that the Corporation finally decided to change the alignment of track to the extent of western side only and which ultimately led to the DFCCIL denotifying the acquisition of the land of the petitioners.

The contention of learned counsel for the respondent no. 2 is seriously contested by learned senior counsel for the petitioners who in reference to paragraph no. 14 of the counter affidavit filed on behalf of the Competent Authority-cum-District Land Acquisition Officer, District Kaimur at Bhabua (respondent no. 5) submits that there is specific statement therein that the Circle Officer, Mohania, District Kaimur at Bhabhua (respondent no. 6) vide his letter no. 60 dated 10.2.2015 gave possession of the acquired land ie 2.6009 hectares to the DFCCIL (respondent no. 2).

Learned counsel of respondent no. 2 further submits that so far as payment of compensation etc. in case of denotification is concerned, it has to be kept in mind that the



Railways Act came in the year 1989. Section 20N of this Act categorically provides that the Land Acquisition Act, 1894, shall not apply to an acquisition under this Act. It is further submitted that so far as the residual prayer made on behalf of the petitioners is concerned, the only provision in this special Act is as contained in section 20C of the Railways Act, 1989 and for the said purpose the petitioners may take steps in accordance with law. However, it is submitted that the possession itself of the petitioners' land not having been taken by the respondents which ultimately was the reason for denotification, the petitioners are not entitled for any damages etc.

Having heard learned counsel for the parties and having perused the material on record, it would be relevant to reproduce section 20C of the Railways Act, 1989 which reads as follows:

“20C Evaluation of damages during survey, measurement, etc. —The damages caused while carrying out works on land such as survey, digging or boring sub-soil, marking boundaries or cutting trenches or clearing away any standing crop, fence or forest or doing such other acts or things which may cause damages while acting under section 20B particularly relating to land which is excluded from acquisition proceeding, shall be evaluated and compensation shall be paid to the persons having interest in that land, within six months from the



completion of the said works.”

Without going into the merits of the claim of the parties, this writ application is disposed of giving liberty to the petitioners to file an application / petition before the Collector, Kaimur at Bhabua for the prayer of payment of rent / damages etc. which will be considered by the Collector, Kaimur at Bhabua (respondent n. 4) in accordance with law within a period of three months from the date of its filing and if any amount is found payable the same shall be paid by the respondent concerned within a further period of three months of passing of the order.

(Partha Sarthy, J)

Spd/-

AFR/NAFR	
CAV DATE	
Uploading Date	29.3.2023
Transmission Date	

