

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16569 of 2021

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1. Amar Kumar @ Amar Kumar Singh
 2. Abhay Singh @ Abhay Kumar Singh
Both sons of Late Hiranand Singh, Resident of Mohalla-Bhikhanpur Gumti
No-2, P.S. Ishakchak, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Ministry of Road, Transport and Highways Government of India, New Delhi.
2. The National Highway Authority of India Regional Office, Bihar, Patna.
3. The State of Bihar through District Magistrate, Bhagalpur.
4. The District Land Acquisition Office, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shiv Kumar Prasad, Advocate
For the State	:	Mr. Rishi Raj Sinha, S.C.19
		Mr. Manoj Kumar Sinha, A.C. to S.C.19
For the UOI	:	Mr. R.K.Sharma, CGC
For the NHAI	:	Dr. Maurya Vijay Chandra, Advocate
		Mr. Gaurav Govinda, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 04-05-2023 1. Heard learned counsel for the petitioners and
learned counsel for the respondents.

2. The petitioners has filed the instant application for
the following relief(s):

*“ That this writ application is being
filed for issuance of appropriate writ directing and
commanding the respondent authorities to refer the
matter to the concern authority u/s 64 of the Land
Acquisition Rehabilitation & Resettlement Act
2013 (hereinafter referred to as the Act) for the
determination of matter as the amount of*



compensation awarded has wrongly been determined by the Land Acquisition Officer.

Further for passing the order/orders directing the authority to determine the matter within the statutory period provided under the Act.

And/Or

To pass such other order/orders which the Hon'ble Court thinks the petitioner entitled for."

3. Learned counsel for the petitioners submits that the land appertaining to Plot no.224 under Khata no.4 situated in Mauja Korha, Thana no.126, Anchal Sabour in the District of Bhagalpur was purchased by the petitioners by registered sale deeds in the years 1987 and 1988, copies of which have been brought on record as Annexure-1 to the writ application. For the purpose of widening of NH-80, the respondents proceeded with the acquisition proceeding and served notice under section 37(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('Act of 2013' in short) asking the petitioners to provide the documents as mentioned therein if the petitioners were ready to accept the compensation calculated by the respondents as mentioned therein.

4. Learned counsel for the petitioners submits that the petitioners filed an application before the Collector on 6.8.2021



praying therein that the same be referred to the Authority under section 64 of the Act. Not having received any response, the instant application was filed for the relief prayed for as quoted herein above. It is lastly submitted that the respondents have come out with Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015 ('Order of 2015' in short) from which it would transpire that the provisions of the Act of 2013 would be applicable even with respect to acquisition of land under the enactments specified in 4th Schedule of the Act of 2013. It may be mentioned here itself that the said 4th Schedule at Sl. no.7 mentions the National Highways Act, 1956.

5. In response, it is submitted by learned counsel appearing for the NHAI that as per the provisions of section 105 of the Act of 2013, the provisions of this Act were not to apply in certain cases as mentioned in 4th Schedule of the Act which included the National Highways Act, 1956. On framing of the Order of 2015, the Government has removed the difficulty and has permitted the calculation of compensation in terms of the Act of 2013, however so far as the acquisition of land is concerned, the same would be done under the special Act ie the National Highways Act, 1956.



6. Having heard learned counsel for the parties and having perused the material on record, the matter in the instant case relates to acquisition of land for the purpose of widening of the National Highway ie NH-80 undertaken by the Ministry of Road Transport and Highways. It is for this reason that the Ministry of Road Transport and Highways published the notification in the Gazette of India on 1.11.2018 under section 3(1) of the National Highways Act, 1956 and the same has been brought on record as Annexure-2 to the writ application. Further, it is true that initially under the Act of 2013, section 105 of the said Act read with the contents of the 4th Schedule (which included the National Highways Act, 1956) barred the application of the Act of 2013 in the National Highways Act, 1956. This difficulty has no doubt been removed by the Order of 2015 as has rightly been submitted by learned counsel appearing for the NHAI. So far as the calculation of compensation of land under the National Highways Act, 1956 is concerned, the same will also be done in terms of the Act of 2013. However, at the same time, in the opinion of the Court, so far as the acquisition of land is concerned, the same shall proceed under the National Highways Act, 1956.

7. In view of the facts and circumstances of the case



stated herein above, in the opinion of the Court, the petitioner would not be expected to file his objection before the Collector under section 64 of the Act of 2013 nor can the said relief be granted.

8. There being no merit in this application, the same is dismissed.

9. However, in the facts of the case, the petitioner will be at liberty to file his objection/petition/representation in terms of section 3G(5) of the National Highways Act, 1956 before the Commissioner-cum-Arbitrator, Bhagalpur.

10. In case such an objection is filed by the petitioner within a period of two months, the same shall be decided in accordance with law expeditiously preferably within a period of six months from the date of its filing.

(Partha Sarthy, J)

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