

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16658 of 2021

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Kumud Ranjan W/o-Shri Sanjay Kumar, R/o-House No. A-101, A.G. Colony
P.O.-Ashiyana, P.S.-Shashtri Nagar, District-Patna, Bihar-800025.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue Department, Government of Bihar.
2. The Director Cum Special Secretary, Land Acquisition, Directorate, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Collector Cum District Magistrate, Patna.
4. The District Land Acquisition Officer, Patna.
5. The Additional District Land Acquisition Officer, Patna.
6. The Circle Officer, Phulwarisharif, Patna.
7. The Union of India through the General Manager, East Central Railway, Danapur.
8. The Divisional Rail Manager (DRM), East Central Railway, Danapur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Roona, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, S.C.19
		Mr. Saurabh Kumar, A.C. to S.C.19

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 24-04-2023 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 issuance of order, direction or
an appropriate writ for directing the Respondent
authorities to determine the compensation in terms
of the provisions contained in the right to fair
compensation and transparency in Land Acquisition,
Rehabilitation and Settlement Act, 2013 in view of
Section 24(1) of the aforesaid Act which provides*



that where no award under Section 11 has been made in respect of land acquisition proceeding initiated under the 1894 Act then the provisions of this Act relating to the determination of compensation shall apply.

(ii) For issuance of order, direction or an appropriate writ declaring that the entire land acquisition proceeding instituted through the preliminary notification issued under Section 4(1) of the 1984 Act has lapsed in view of Section 11 of the aforesaid Act which provides that the Collector shall make an award under Section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceeding for the acquisition of the land shall lapse.

(iii) For determination of amount of compensation in favour of the Petitioner in terms of the provisions as contained in the right to fair compensation and transparency in the Land Acquisition, Rehabilitation and Settlement Act, 2013 and payment of the compensation amount with all consequences.

(iv) Any other order/orders for which the petitioner is found entitled to in the facts and circumstances of the case.”

The case of the petitioner is that the petitioner purchased the land in question in the year 2001 by a registered sale deed from a Housing Cooperative Society. The petitioner has throughout been paying rent for the said land and rent



receipt is being granted in favour of the petitioner. Even the land possession certificate issued as recently as on 26.12.2019 confirms the possession of the petitioner.

Learned counsel for the petitioner submits that it was recently that the petitioner came to learn that the land in question had been acquired by the respondent authorities. What the petitioner is affected by is that pursuant to the said acquisition, the award as per the petitioner's case has been paid as per the Land Acquisition Act, 1894 ('1894 Act' in short) while the same should have been paid as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act' in short). In support of her contention, learned counsel for the petitioner further submits that from perusal of the counter affidavit filed on behalf of respondent nos.3 to 5 and more particularly Annexure-A thereof, it would be evident that the award was prepared only on 11.9.2021 ie much after coming of the 2013 Act. Thus, the calculation of compensation should have been made as per the 2013 Act. Reliance is placed on the letter dated 26.10.2015 (Annexure-9) issued under the signature of the Joint Secretary, Govt. of India to the effect that where no award under section 11 of the Land Acquisition Act, 1894 has been made,



then all provisions of the 2013 Act would be applicable in determining the compensation payable. Learned counsel also relies on the judgment of this Court dated 10.4.2019 (Annexure-10) passed in CWJC no.3860 of 2015 (Ranjit Kumar & Ors. vs. The State of Bihar and Ors.) in support of her contention.

The application is opposed by learned counsel appearing for the respondents. Learned counsel for the respondents in reference to the statement made in the counter affidavit filed on behalf of respondent nos.3 to 5 and more particularly paragraph 11 thereof submits that while preparing the compensation payable to the petitioner, 100% solatium amount and additional damages in view of section 30(3) of the 2013 Act were taken into account. It is thus submitted that there is no merit in the instant application and the same be dismissed.

Paragraph no.11 of the counter affidavit of respondent nos.3 to 5 is quoted herein below for ready reference:

“11.That calculation chart along with order for payment of compensation amount of Rs. 4,24,630.00 to the petitioner Smt. Kumud Ranjan has already been prepared including the payments after addition of Factor-2, 100% solatium amount and additional damages and also in view of the provisions under section 30 (3) of the RFCTLARR Act, 2013.”

Having heard learned counsel for the parties and



having taken into consideration the material on record, the facts not in dispute are that although the notification of acquisition with respect to the land in question was issued in the year 2006-07, it was only after steps were taken by the petitioner for filing of the instant application by swearing an affidavit on 10.9.2021 that the award was prepared by the respondents on 11.9.2021. Further with respect to the statement made in paragraph no.11 of the counter affidavit of respondent nos.3 to 5, as quoted hereinabove, this Court is of the opinion that by making that statement even the respondents have agreed to the effect that compensation is to be paid to the petitioner as per the 2013 Act. Further, this Court finds that judgment dated 10.4.2019 in the case of Ranjit Kumar (supra) is directly applicable in the case of the petitioner.

Relevant portion of the said judgment dated 10.4.2019 passed in the case of Ranjit Kumar (supra) is quoted hereinbelow for ready reference:

“40. I have, thus, no hesitation in concluding, in view of the aforesaid discussions that:

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(i) in a case where the land acquisition proceedings had commenced under the provisions of L.A. Act, 1894, but award was not made prior to 01.01.2014, under Section 11 of the said Act, all provisions of the L.A. Act, 2013 shall apply for



determination of the amount of compensation and the date of determination of market value of the land should be treated as 01.01.2014 in the light of the decision of the Central Government as contained in letter/communication dated 26.10.2015 (supra).

(ii) requirement of laying any order before the Parliament under sub-Section (2) of Section 113 of the L.A.Act, 2013, is directory in nature for default of which the order passed under Section 113 of the L.A. Act, 2013, cannot be said to be inoperative or invalid.

41. Be it noted that a plea was raised at the very outset on the point of maintainability of the present writ application on the ground that the petitioners had alternative statutory remedy under Section 64 of the L.A. Act, 2013. In the background of the issues, which involved interpretation of statutory provisions, I decided to answer the said legal issue first before relegating the petitioners to avail their statutory remedy under Section 64 of the L.A. Act, 2013. Section 64 of the L.A. Act, 2013, contemplates that if any person interested has not accepted the award, may, by written application to the Collector, require the matter to be referred by the Collector for determination of the authority, inter alia, his objection in respect of amount of compensation. The Collector is thereafter required to refer the matter to the appropriate authority within the meaning of Section 51 of the L.A.Act, 2013, within a period of 30 days from the date of receipt of the application. There is requirement under Clause(b)



of sub-Section (2) of Section 64 of the L.A.Act,2013, that every application under Section 64(1) of the L.A. Act, 2013, shall state grounds, on which objection to the award is taken, within the period prescribed. Proviso to sub-Section (2) of Section 64 of the L.A. Act, 2013, empowers the Collector to entertain an application after expiry of the period within a further period of one year, if he is satisfied that there was sufficient cause for not filing within the period prescribed in the first proviso.

42. In the present case, award has been prepared during the pendency of this writ application and there has been an order of status-quo to be maintained by the parties.

43. In view of the discussion as above, the alternative prayer of the petitioners is allowed. They are accordingly held to be entitled for determination of award by treating 01.01.2014 as the date of notification under Section 11 of the L.A. Act, 2013, and the market value of the land acquired as on 01.01.2014 shall be accordingly the basis for computation of the amount of compensation.” (emphasis supplied)

So far as the facts of the instant case is concerned, at the cost of repetition, it may be stated that much after coming to the 2013 Act that the award was prepared on 11.9.2021. Thus, as has been held in the case of Ranjit Kumar (supra), the instant application is also disposed of on the following terms:



(I) The petitioner is held entitled for determination and payment of compensation in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(II) The petitioner shall approach the Authority under section 64 of the L.A. Act within a period of two months.

(III) The petitioner will be at liberty to raise all the points with respect to determination etc. of the amount of compensation including those raised by the petitioner in the instant writ application.

(IV) The question of delay in approaching the Collector/Authority shall not come in way and the objection filed by the petitioner will be decided in accordance with law and determined by the Authority as contemplated under section 64 of the Act within a period of four months and further the compensation amount will be paid within two months of its determination.

The writ application stands allowed with the above observations and directions.

(Partha Sarthy, J)

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