

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2700 of 2018

1. Surya Mohan Mandal, Son of late Mukti Mandal
 2. Sanjay Kumar Singh
 3. Nirbhay Kumar Singh
Both Sons of Pushpa Devi & Late Naresh Mandal
 4. Ajit Kumar, Son of late Abhay Kumar Singh,
All Residents of Village Kalgiganj, P.S. Kahalgaon, District Bhagalpur.
- Petitioner/s
- Versus

1. The State of Bihar through the Collector, Bhagalpur
 2. The National Thermal Power Corporation Kahalgaon, through General Manager of Corporation.
- Respondent/s
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Appearance :

For the Petitioner/s	:	Mr. Indeshwari Prasad Mandal, Advocate
For the State	:	Mr. Dhurjati K. Prasad, G.P-14
For the NTPC	:	Mr. Amresh Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

- 6 28-04-2023 1. Heard learned counsel for the petitioners, learned counsel for the National Thermal Power Corporation ('the NTPC' in short) and learned counsel for the State.
2. The petitioners have filed the instant application for the following relief(s):-

"That this application is being filed for appropriate writ/ writs, order/ orders, direction/ directions to dispose of the case in the light of order of the Hon'ble Supreme Court passed in Civil Appeal arise out in Judgment and award on 12.03.1992 and 22.03.1992 respectively passed by



the Learned Court of Sub-Judge-1, cum-L.A. Judge, Bhagalpur in Land Acquisition Case No.429/1989, L.A. Case No.431/1989, L.A. Case No.432/1989, and L.A. Case No.445/1989, and award also given by the Learned Court, in the light of the direction of the Hon'ble Supreme Court of India passed in Civil Appeal No.2780/1998 dated 14.01.2004.”

3. The case of the petitioner in brief is that the land of the petitioners which is subject matter of the instant application was the subject of acquisition by the NTPC. The award was prepared. Learned counsel for the petitioners submits that the reference case continues to remain pending as of today.

4. It is submitted by learned counsel for the respondents that in similar cases wherein also the reference cases are still pending, the NTPC has entered into an out of Court settlement with large number of persons for settlement of the same and for payment of compensation at the rate of Rs.480/- per decimal. It is thus submitted that the instant application be disposed of directing the respondent-NTPC to also consider the case of the petitioner in similar terms for out of Court settlement and payment of compensation.

5. Learned counsel appearing for the NTPC submits



that in a number of cases, the award was prepared against which the land owners filed for enhancement of the compensation. The matter ultimately reached the Hon'ble Supreme Court which set aside the award and the matter was once again pending in different reference cases.

6. So far as the statement with respect to the NTPC entering into out of Court settlement is concerned, learned counsel submits that a counter affidavit has been filed on behalf of the NTPC wherein they have stated about this out of Court settlement and payment of compensation at the rate of Rs.480/- per decimal. It has also been stated that the same is solely based on the decision and internal modalities of the NTPC subject to the procedure adopted by the NTPC for settlement of pending LAR cases being agreed and acted upon by the land owners.

7. Having heard learned counsel for the parties and having perused the material on record, the Court deems it fit to reproduce paragraph nos.6 and 7 of the counter affidavit filed on behalf of the NTPC for ready reference:-

“6. That as per the available records, with reference to the aforesaid cases, it appears that several land - oustees approached the NTPC for out-of-the-court settlement, without waiting for the order of the Reference court. Accordingly, based on the request from the various land oustees, the



compensation was settled at the rate of Rs.480/ per decimal, subject to complying the procedure adopted by the NTPC for the settlement of the pending LAR cases. After the settlement, the closure petition filed before the Land Acquisition Judge, Bhagalpur and get the case closed. This settlement procedure is not based on the aforesaid order of Supreme court and this is only the internal modalities adopted by NTPC to settle the matter. The Supreme court only directed that in all 492 cases, wherein amount have been enhanced and other pending reference cases before the Reference Court, the NTPC will be impleaded as the parties and the award made by reference court in the 492 reference cases wherein amount have been enhanced were set aside and were remitted back to the reference court.

7. That the petitioner may pursue his remedies before the Reference Court (i.e. where his reference case is presently pending) for the enhancement of compensation or any other grievance. For the purpose of compromise with the NTPC Kahalgaon, the petitioners may approach the NTPC authorities with all the necessary documents i.e. application /request for settlement at the rate of 480/decimal along with certified copy of the Award(s) in favour of the petitioners, certified copy of Land Acquisition Reference (LAR) petition and other documents and proof of the identity of concerned persons /bank details etc. If the concerned land oustee is not alive/existing presently, then the necessary substitution of legal heirs in the reference petition and in other case records is also



required and certified copy of the same is required to be submitted at the time of settlement. The settlement may be subject to the procedure and formalities followed by NTPC kahalgaon in the previous cases and thereafter getting closure of the LAR cases before the tribunal as per the modalities of the proposed compromise, is the sole responsibility of the petitioner.”

8. In view of the facts, this writ application is disposed of directing the petitioners to approach the NTPC with all relevant and supporting documents. It is directed and expected that the NTPC will proceed to consider the case of the petitioners for out of Court settlement on an application so being filed along with all supporting documents as has been done in similarly situated cases within a period of four months from the date of its filing.

9. It is clarified here that the Court has not entered into the merits of the case of the parties in the instant writ application.

10. This writ application is disposed of with the above observations and directions.

(Partha Sarthy, J)

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