

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.658 of 2023

1. Md. Zafar Son of Late Md. Aiyub, Resident of Ward No.8, Jogbani, P.S. Jogbani, District- Araria.
2. Reza Ahmad Son of Late Ishtiaque Ahmad, Resident of Ward No.8, Jogbani, P.S. Jogbani, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms and Revenue Department, Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Appropriate Government, Araria.
3. The Addl. Collector, Araria.
4. The District Land Acquisition Officer, Araria.
5. The Commandant 45th Bm. S.S.B. Birpur, Araria.
6. The Bihar State Sunni Wakf Board, through its Chief Executive Officer-cum-Secretary, Bihar Haj Bhawan, Ali Imam Path, Patna- 800001

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Wasu Akhtar, Adv.
For the State	:	Mr. Ram Pravesh Nath Tiwari, AC to SC- 25.
For the UOI	:	Mr. R. K. Sharma, CGC.
For Waqf Board	:	Mr. Md. Helal Ahmad, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 23-06-2023

Heard learned counsel for the petitioners, learned counsel for the State, learned counsel for the Union of India and learned counsel for the respondent no.6.

2. The present writ petition has been filed with the following reliefs which are as follows:-

(a) To quash the notification preliminary notification under Section 11(i) of the Right to Fair Compensation and Transparency in

Land Acquisition Rehabilitation and Resettlement Act 2013 (hereinafter referred to as the Act, 2013) as contained in memo no.224 dated 14.02.2020 wherein it is mentioned that 3.00 acre land as mentioned therein is required for public purpose i.e. for construction of Chauki for 56th Bahini Sashatra Seema Bal and that State Government has decided to acquire the land under emergency provision as contained in Section 40 of the Act.

(b) To quash the notification issued under Section 9(1) of the Act Prabhat Khabar published from Bhagalpur on 29.02.2020 whereby and whereunder Respondent no.2 purported to acquire 3.00 acre land appertaining to Khata No.22 Plot No.325, 340, 339 and 342 measuring 0.71 acre, 1.23 acre, 0.48 acre and 0.58 acres situated at Mouza Bhairoganj (Basmatia) Thana No.192 with the boundaries mentioned therein.

(c) To quash the order dated 12.03.2021 passed by the Additional Collector whereby he purported correct Jamabandi.

3. Learned counsel for the petitioners submits that petitioners are the Mutwallis of a registered waqf situated at Jogbani in the district of Araria. He further submits that the proposal for acquisition of 3 acres of land under Revenue Village Bhairoganj was sent vide letter no.428 dated 17.12.2014 and again by letter dated 08.02.2017. The Commandant 45th BN. S.W.B., Birpur requested to District Magistrate for financial sanction to acquire 3 acres of land for Bop Tinkhamba. He also submits that respondent no.6, Bihar State Sunni Waqf Board by resolution dated 08.11.2019 sanction for acquisition of land in question was granted and communicated to the Collector by letter no.3911 dated 25.11.2019. The contention of the petitioner is that the Bihar State Sunni Waqf Board is no authority under law to make such sanction for acquisition of land in question as the present land belongs to the petitioners and registered as Waqf bearing Waqf No.AR/2768. Learned counsel further submits that the entire matter was raised before the Additional Collector and by the order passed by the Additional Collector dated 12.03.2021 the said Jamabandi was corrected. He submits

that the said correction in the Jamabandi as has been made by the Additional Collector in respect of Bihar State Sunni Waqf Board is absolutely illegal and, therefore, by virtue of the present writ petition the petitioners have two fold prayer, the first to set-aside the order dated 12.03.2021 passed by the Additional Collector, Araria in Jamabandi Correction Case No.384 of 2001, about the correction in the Jamabandi and second to quash the notification under Section 11(i) of the Right of Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 and the notification under Section 19 (1) of the said Act.

4. This point has also been raised by counsel for the petitioners that due to said illegal order of the Additional Collector in Jamabandi the compensation amount of Rs.1,49,24,000/- (Rupees One Crore Fourty Nine Lacs Twenty Four Thousands) was paid to the respondent Board by District Land Acquisition Officer, Araria which is also illegal and without jurisdiction towards the acquisition of said land. Learned counsel also raised objection that fixation of treating land as agricultural and not a residential land is also not acceptable.

5. Learned counsel for the State seeks permission

to file counter affidavit in this case.

6. Learned counsel for the Seema Suraksha Bal (in short S.S.B.) (respondent no.5) submits that the process of acquisition started completely in accordance with law and the payment towards acquisition has correctly been made in the account of the person in whose name the Jamabandi exists. The petitioners are unnecessary creating hurdle. He also submits that at worst the petitioners may have grievances against the order passed by Additional Collector for which there is a separate remedy at all and not before this Court. He further submits that the dispute in this case is between the Bihar State Sunni Waqf Board, respondent no.6 and the petitioners to ascertain that in whose favour the claim has to be settled, but since the present order of Additional Collector, Araria is in favour of respondent no.6, therefore, till date there is no deficiency in the process.

7. Upon going through the records and hearing the submissions of parties, this Court is of the consistent view that this dispute has arisen by the order dated 12.03.2021 passed by the Additional Collector, Araria in Jamabandi Correction Case No.384 of 2001, relating to Jamabandi. According to the Bihar Mutation Act, 2011, the remedy lies to the petitioners against the correction of Jamabandi under Section 9 (6) (a) to file Appeal

before the Collector of the District and against the order of Collector of the District the remedy lies to file Revision under Section 9 (7) (a) to the Commissioner of the Commissionary and then only before BLT and thereafter before the High Court. But here in the present case the petitioners have directly jumped before High Court for setting aside the order passed by Additional Collector, Araria relating to correction in Jamabandi.

8. In this view of the matter, the present Writ Petition stands dismissed with liberty to the petitioners that they may avail the remedy in accordance with law as laid down in the Bihar Mutation Act, 2011 and its Rules.

(Dr. Anshuman, J.)

Ritik/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	