

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6866 of 2018

1. Sohliya Devi and Anr Wife of Sri Vindeshwar Sah,
2. Bikau Jha, Son of Bishnu Kant Jha @ Bindu Jha, Both resident of Rampur Brit, Ward No. 14, P.O. P.S. and Circle- Madhwapur, District- Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Darbhanga Commissionaire, Darbhanga.
3. The Collector, Madhubani.
4. The Additional Collector-cum-Arbitrator, Madhubani.
5. The District Land Acquisition Officer, Madhubani.
6. The Circle Officer, Madhwapur.
7. Bindeshwar Sah, Son of late Madhav Sah, resident of Village- Rampur Brit, Ward No. 14, P.O., P.S. and Circle- Madhwapur, District- Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abinash Kumar, Advocate
For the Respondent/s	:	Mr. Dhurjati Kumar Prasad, GP-14

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 19-09-2024 Heard Mr. Abinash Kumar, learned Advocate for the petitioners and Mr. Dhurjati Kumar Prasad, learned Government Pleader No.14 for the State.

2. The petitioners are aggrieved by the order dated 09.12.2017 passed by the Presiding Officer, Land Acquisition, Rehabilitation and Resettlement Authority, Darbhanga in Misc. Case No.38 of 2017-18, whereby the petitioners case has been dismissed as not maintainable with a liberty to the applicant to file petition before the District Land Acquisition Officer,



Madhubani for referring the matter to the authority.

3. Learned Advocate for the petitioners advertig to the averments made in the writ petition contended that petitioner No.1 had purchased 1 Katha 6½ dhurs land appertaining to Khata No.194(old), 292(New), Khesra No.554(old), 915(New), Thana No.56 at Rampur Brit *Mauza* at Madhubani from the vendor Ashok Jha through registered sale deed dated 02.05.2012. Having purchased the land, mutation has been made in favour of the petitioner No.1 and *jamabandi* has been created. It is further contended that the petitioner No.2 is full brother of vendor of petitioner No.1 whereas respondent No.7 is husband of petitioner No.1 Though the award was prepared in favour of petitioner No.2 and respondent No.7 and as such, they have contested the case along with the petitioner. With respect to the acquisition of the land, for the purpose of Bharat-Nepal Simantar Sadak Project (Parsa to Akharaghat) in Land Acquisition Case No.1 of 2015-16, a notice was issued under Section 19(1) on 31.10.2016. Thereafter, a further notice under Section 21(2) has also been issued fixing the date of appearance and filing objection. The petitioners filed a detailed objection before the Respondent No.5 for making necessary correction with respect to nature of the land on the basis of sale deeds,



however, the same has not been done. It is the contention of the petitioners that in spite of objection being filed, without considering the same, notice under Section 37(2) of the Act, 2013 issued mechanically on 30.12.2016. Thereafter the petitioners filed Miscellaneous Case No.51 of 2016-17 before the respondent No.4. On being found the respondent No.4 as not competent, the petitioners, as well as, respondent No.7 moved before the L.A.R.R.A. (DGB) in Misc. Case No.38 of 2017-18 well within time. Despite the aforesaid fact, the objection case of the petitioners has not been disposed off and the impugned order came to be passed.

4. It is urged that pursuant to the order passed by the L.A.R.R.A., the petitioners also filed an application under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the copy of which is marked as Annexure-14 to the writ petition; but till date neither any final order has been passed nor the matter has been referred to the authority concerned.

5. Learned Advocate for the State, at this juncture, referring to Section 64 of the Land Acquisition, Rehabilitation and Resettlement Act, 2013 submitted that any person interested who has not accepted the award should approach before the



Collector for referring the matter to the appropriate authority within six weeks from the date of Collector's award; in other case within six weeks of the receipt of the notice from the Collector under Section 21; or within six months from the date of the Collector's award, whichever period shall first expire. The Collector may entertain an application after the expiry of the said period within a further period of one year if he is satisfied that there was sufficient cause for not filing the application within the period specified in the *first proviso*. Thus, in view of the *proviso* to Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 the petitioners have not approached before the Collector within the time prescribed.

6. Having heard the learned Advocate for the respective parties and considering the fact that in terms of the order passed by the L.A.R.R.A. on 09.12.2017, the petitioners have filed an application before the Land Acquisition Officer, Madhubani on 28.12.2016, though it should be filed before the Collector who is the competent authority under Section 64 to refer the award to the competent authority. In view of the fact that the petitioners have filed the application before the Land Acquisition Officer and thereafter approached this Court on



11.04.2018, the *bona fide* of the petitioners appear to be writ large and as such, the delay, if any, comes in the way of the petitioners to approach before the Collector, it may be excluded in view of Section 14 of the Limitation Act.

7. The writ petition stands disposed off with a liberty to the petitioners to file an appropriate application under Section 64 of the Act, 2013 along with the limitation petition for condonation of delay before the Collector, Madhubani preferably within a period of 4 weeks from today. In case such an application is filed the Collector, Madhubani shall consider the limitation petition sympathetically and pass appropriate order within the period prescribed under the Act, 2013.

8. The writ petition stands disposed off with aforesaid observation and liberty.

(Harish Kumar, J)

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