

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8285 of 2018

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Savita Kumari Wife of Sri Niraj Kumar Sah, Resident of Village-P.O. P.S. and
Circle-Madhwapur, Basuki Bihari, District-Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Commissioner, Darbhanga Commissionery, Darbhanga.
3. The Collector, Madhubani.
4. The Additional Collector-Cum-Arbitrator, Madhubani.
5. The District Land Acquisition Officer, Madhubani.
6. The Circle Officer, Madhwapur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abinash Kumar, Advocate
For the Respondent/s : Mr. Rishi Raj Sinha, SC19

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 19-09-2024 Heard Mr. Abinash Kumar, learned Advocate for the

petitioners and Mr. Rishi Raj Sinha, learned Standing Counsel

No.19 for the State.

2. The petitioner is aggrieved by the order dated
09.12.2017 passed by the Presiding Officer, Land Acquisition,
Rehabilitation and Resettlement Authority, Darbhanga in Misc.
Case No.35 of 2017-18, whereby the petitioner's 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 petitioner adverting to the



averments made in the writ petition contended that petitioner had purchased 6 Katha land appertaining to Khata No.19(old), 538(New), Khesra No.172(old), 394(New), Thana No.56 at Rampur Brit *Mauza* at Madhubani from the vendor Udit Narayan Jha & Dilip Kumar Jha through registered sale deed dated 18.05.2015. Having purchased the land, mutation has been made in favour of the petitioner and *jamabandi* has been created bearing Jamabandi No.1165. 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 petitioner 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 petitioner 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 petitioner filed Miscellaneous Case No.45 of 2016-17 before the respondent No.4. On being found the respondent No.4 as not competent, the petitioner, as



well as, respondent No.7 moved before the L.A.R.R.A. (DGB) in Misc. Case No.35 of 2017-18 well within time. Despite the aforesaid fact, the objection case of the petitioner 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 petitioner 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-11 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 petitioner has 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 petitioner has filed the application before the Land Acquisition Officer and thereafter approached this Court on 27.04.2018, the *bona fide* of the petitioner appear to be writ large and as such, the delay, if any, comes in the way of the petitioner 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 petitioner 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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