

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22294 of 2018

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Narayan Rastogi, Son of late Ram Mohan Rastogi, Resident of Village- Sakri,
P.S.- Kudra, District- Kaimur.

... .. Petitioner/s

Versus

1. The Eastern Dedicated Freight Corridor Corporation of India Pvt. Ltd. through the Chief Project Manager, Mughalsarai, Varanasi.
2. The Deputy Project Manager, Eastern Dedicated Freight Corridor Corporation of India, Pvt. Ltd. Mughalsarai, Varanasi.
3. The State of Bihar through the Principal Secretary, Revenue Department, Govt. of Bihar, Patna.
4. The District Magistrate, District- Kaimur.
5. The Arbitrator Cum Commissioner Patna Division, Patna.
6. The Competent Authority cum District Land Acquisition Officer, District- Kaimur.
7. The Circle Officer, Kudra, District- Kaimur.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 22333 of 2018

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Baldeo Sharma, Son of Late Sarju Sharma, Resident of Village- Sakri, P.S.-
Kudra, District- Kaimur.

... .. Petitioner/s

Versus

1. The Eastern Dedicated Freight Corridor Corporation of India Pvt. Ltd. through the Chief Project Manager, Mughalsarai, Varanasi.
2. The Deputy Project Manager, Eastern Dedicated Freight Corridor Corporation of India Pvt. Ltd. Mughalsarai, Varanasi.
3. The State of Bihar through the Principal Secretary, Revenue Department Govt. of Bihar, Patna.
4. The District Magistrate, District- Kaimur.
5. The Arbitrator cum Commissioner Patna Division, Patna.
6. The Competent Authority cum District Land Acquisition Officer, District- Kaimur.
7. The Circle Officer, Kudra, District- Kaimur.

... .. Respondent/s



with
Civil Writ Jurisdiction Case No. 22585 of 2018

Ranjan Rastogi, Son of Late Ram Mohan Rastogi, Resident of Village- Sakri,
P.S.- Kudra, District- Kaimur.

... .. Petitioner/s

Versus

1. The Eastern Dedicated Freight Corridor Corporation of India Pvt. Ltd. through the Chief Project Manager, Mughalsarai, Varanasi.
2. The Deputy Project Manager Eastern Dedicated Freight Corridor Corporation of India Pvt. Ltd. Mughalsarai Varanasi.
3. The State of Bihar through the Principal Secretary, Revenue Department Govt. of Bihar, Patna.
4. The District Magistrate District- Kaimur.
5. The Arbitrator Cum Commissioner Patna Division, Patna.
6. The Competent Authority cum District Land Acquisition Officer District- Kaimur.
7. The Circle Officer Kudra, District- Kaimur.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 22783 of 2018

Harinarayan Singh, Son of Late Tegri Singh, Resident of Village- Sakri, P.S.-
Kudra, District- Kaimur.

... .. Petitioner/s

Versus

1. The Eastern Dedicated Freight Corridor Corporation of India Pvt. Ltd. through, the Chief Project Manager, Mughalsarai, Varanasi.
2. The Deputy Project Manager, Eastern Dedicated Freight Corridor Corporation of India Pvt. Ltd. Mughalsarai Varanasi.
3. The State of Bihar through the Principal Secretary, Revenue Department Govt. of Bihar, Patna
4. The District Magistrate, District- Kaimur.
5. The Arbitrator Cum Commissioner Patna Division, Patna
6. The Competent Authority cum District Land Acquisition Officer, District- Kaimur.
7. The Circle Officer, Kudra, District- Kaimur.

... .. Respondent/s



with
Civil Writ Jurisdiction Case No. 23168 of 2018

Saraswati Devi, w/o Late Bhagelu Singh, R/o Village- Sakri, P.S.- Kudra,
Dist- Kaimur.

... .. Petitioner/s

Versus

1. The Eastern Dedicated Freight Corridor Corporation India Pvt. Ltd. through, the Chief Project Manager, Mughalsarai, Varanasi.
2. The Deputy Project Manager, Eastern Dedicated Freight Corridor Corporation of India Pvt. Ltd. Mughalsarai, Varanasi
3. The State of Bihar, through the Principal Secretary, Revenue Department Govt of Bihar, Patna
4. The District Magistrate, District Kaimur.
5. The Arbitrator cum Commissioner Patna Division, Patna.
6. The Competent Authority cum District Land Acquisition Officer, District Kaimur.
7. The Circle Officer, Kudra, District Kaimur.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 22294 of 2018)

For the Petitioner/s : Mr. Ramchandra Singh, Advocate
For the Respondent/s : Md. Khurshid Alam, AAG-12
Ms. Nutan Sahay, AC to AAG-12
For the Railways : Mr. Ashok Kumar Keshari, Advocate

(In Civil Writ Jurisdiction Case No. 22333 of 2018)

For the Petitioner/s : Mr. Ramchandra Singh, Advocate
For the Respondent/s : Mr. Raj Kishore Roy, GP-18
For the Railways : Mr. Ashok Kumar Keshari, Advocate

(In Civil Writ Jurisdiction Case No. 22585 of 2018)

For the Petitioner/s : Mr. Ramchandra Singh, Advocate
For the Respondent/s : Mr. Subash Chandra Yadav, GP- 15
For the Railways : Mr. Ashok Kumar Keshari, Advocate

(In Civil Writ Jurisdiction Case No. 22783 of 2018)

For the Petitioner/s : Mr. Ramchandra Singh, Advocate
For the Respondent/s : Mr. Sajid Salim Khan, SC- 25
Mr. Wasi Ahmad Khan, AC to SC- 25
For the Railways : Mr. Ashok Kumar Keshari, Advocate

(In Civil Writ Jurisdiction Case No. 23168 of 2018)

For the Petitioner/s : Mr. Ramchandra Singh, Advocate
For the Respondent/s : Mr. Subash Chandra Yadav, GP-15
For the Railways : Mr. Ashok Kumar Keshari, Advocate



CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
CAV JUDGMENT

Date : 24-10-2024

This Court has heard Mr. Ram Chandra Singh, learned Advocate for the petitioners, Mr. Ashok Kumar Keshari, learned Advocate for respondent no.2 and the learned Advocate for the State.

2. Considering the identical nature of grievance raised in batch of these writ petitions on the same set of facts, with the consent of the learned Advocates for the respective parties, they are being heard together and disposed of by this common order/judgment.

3. The land of the petitioners were acquired for the Special Railway Project, known as Dedicated Freight Corridor; they have approached this Court by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking a direction upon the respondent authorities to consider their cases for grant and pay the award amount considering their land as residential along with interest, in accordance with law.

4. The brief facts of the case are that the Government of India has taken a policy decision to develop the Railways for fast movement of the goods and for the said



purpose in order to create better infrastructure of the Railways, it has been decided to create Eastern Dedicated Freight Corridor. For the said purpose, a Gazette notification was duly published on 10.09.2010. Such notification has also been published in the Daily Newspaper on 27.10.2010. The land of the petitioners is subject matter of the instant writ petition was acquired under the provisions of the Railways Act, 1989 vide Land Acquisition Case No. 26 of 2011-12. The grievances of the petitioners are that initially their lands along with others sought for acquisition was notified as residential and the same was informed to the officials of the Railway Project. Consequently, the award, in question, was prepared by the competent authority on 17.01.2012 with respect to the land of the petitioners and others treating some of the land as agriculture and part of the land as residential. Being aggrieved by the classification of the land, some of the land holders and the Railway officials as well moved before the learned Arbitrator. The learned Arbitrator, as per the averments made in the writ petitions, without issuing the notice to the petitioners and other similarly situated persons set aside the determination of the nature of the land made by the competent authority-cum-District Land Acquisition Officer and directed the competent authority to treat the land as agricultural.



The competent authority prepared the modified award in the light of the order passed by the learned Arbitrator treating the land of the petitioners and other similarly situated persons as agricultural land. Some of the land holders, being aggrieved by the order passed by the learned Arbitrator, moved to this Court in C.W.J.C. No. 14337 of 2013, C.W.J.C. No. 7075 of 2013, C.W.J.C. No. 7174 of 2013 and C.W.J.C. No. 896 of 2013.

5. The learned Single Judge of this Court having taken note of the fact that the petitioners of those writ petitions have been deprived from the opportunity of hearing, has set aside the order of the learned Arbitrator vide order dated 27.06.2014 and remanded the matter back to the learned Arbitrator to hear the parties after giving proper notice and decide the case on its merit. The order passed by the learned Single Judge is marked as Annexure-3 to the writ petition.

6. The petitioners seek parity to the writ petitioners with the petitioners of the aforementioned writ petitions and urged before this Court that though the present writ petitioners have received the amount under the award, but the same was done under protest, as it was assured by the competent authority that the order passed by the learned Arbitrator shall be binding upon all the similarly situated persons. However, they have learnt that



pursuant to the order of this Court, as noted hereinabove, the competent authority has modified the award in terms of the order passed by the learned Arbitrator vide its order dated 25.06.2015 passed in Case No. 26 of 2011-12 treating the land as residential and paid the deferential amount to the parties. But surprisingly, when the authority had not modified the award of the petitioners, the petitioners approached before the competent authority to consider their cases, as has been done in the case of other similarly situated persons, but they have been asked to bring similar order from this Hon'ble Court. Having found no way out, they moved before this Court.

7. Learned Advocate for the petitioners also contended that some of the similarly situated persons approached before this Court and they have been directed to avail the remedy available under Section 20(F)(6) of the Railways Act, 1989 (hereinafter referred to as 'the Act, 1989') to approach before the learned Arbitrator as notified under the notification issued by the Union of India.

8. On the other hand, Mr. Keshari, learned Advocate for the respondent Corporation vehemently opposed the prayer of the petitioners and contended that apart from incorrect facts, the writ petitions are wholly misconceived. In



fact, the award, in question, was prepared on 17.01.2012 itself and the nature of the petitioners' land have been shown as agricultural. The aforesaid award dated 17.01.2012 has got approval by the Dedicated Freight Corridor Corporation of India Limited. The petitioners in pursuance of the aforesaid award accepted the award amount and granted receipt for the same along with bond paper. It is further contended that some of the land holders of village Sakri, Pachpokhari, Daindih and Dusadhichak filed Arbitration case before the learned Sole Arbitrator-cum-Commissioner, Patna Division, Patna stating therein that the rate declared by the District Land Acquisition Officer, Kaimur is quite less and they sought for enhanced rate of compensation. The learned Arbitrator has not acceded to the prayer of the land holders and found no change is required in the nature of the land. However, having found some discrepancy in the rate of the land in some of the Mauja prescribed an average rate.

9. The writ petitioners, after lapse of six years have approached this Court challenging the award dated 17.01.2012 and also the order dated 28.08.2012 passed by the learned Arbitrator without challenging the same either before the learned Arbitrator and the Principal District Judge, Civil Court,



as provided under Section 20(F)(7) of the Act, 1989.

10. In view of the prescription as provided under Section 20(F)(7) of the Act, 1989, the writ petitions are not at all maintainable. If the petitioners have had any grievance, they have the remedy available under the Arbitration and Conciliation Act, 1996.

11. Countering the submissions of the learned Advocate for the petitioners with regard to the parity of the case of petitioners to those of the writ petitioners in C.W.J.C. No. 14337 of 2013 and other analogous cases, it is contended that the petitioners of those writ petitions have not received the payment under the award and they approached this Court way back in the year 2013 and 2014 itself.

12. Mr. Keshari, learned Advocate for the Corporation further contended that the petitioners are affected by the valuation of the land done by the respondent authorities and the amount of compensation paid to them. Section 20(F) of the Act, 1989 deals with determination of amount payable as compensation. If the amount determined by the competent authority under Sub-Section 1 of Section 20(F) of the Act, 1989 or as the case may be, Sub-Section 3 of Section 20(F) of the Act, 1989 is not acceptable to either of the parties, the amount



shall, on an application by either of the parties be determined by the learned Arbitrator to be appointed by the Central Government, in such manner as may be prescribed. Sub-Section 7 thereof clearly stipulates that subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to every arbitration under this Act.

13. Having heard the learned Advocates for the respective parties and taking note of the materials available on record, specially the copy of the award, this Court finds that the award has been prepared by determining the nature of the land as agriculture and, accordingly, compensation has been paid, which was duly accepted by the petitioners, however, with protest. Had the petitioners been aggrieved by the award, the remedy was available to them to approach before the learned Arbitrator as provided under Section 20(F)(6) of the Act, 1989. In case, any of the petitioners are aggrieved by the order passed by the learned Arbitrator, the remedy is available only under the Arbitration and Conciliation Act, 1996.

14. In any view of the matter, in the opinion of this Court, the present batch of writ petitions are not maintainable. However, in both the aforementioned eventualities, the petitioners are at liberty to take proper recourse as available under the law.



15. The writ petitions stand closed with the liberty
aforesaid.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	26.09.2024
Uploading Date	26.10.2024
Transmission Date	NA

