

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3536 of 2024

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1. Mala Sinha wife of Ramchandra Prasad Singh, resident of village-Basudeopur P.S.- Kalyanpur, District- Samastipur.
 2. Anil Kumar son of Vishwanath Prasad, resident of village- Basudeopur P.S.- Kalyanpur, District- Samastipur.
 3. Laxmi Das son of Rameshwar Das, resident of village-Basudeopur P.S.- Kalyanpur, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Bihar, Patna.
2. Collector, Samastipur.
3. District Land Acquisition Officer, Samastipur.
4. The National Highways Authority of India through its Managing Director.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Harshvardhan Shivsundaram, Advocate
For the Respondent/s	:	Ms. Dimpal Kumari, AC to GP-11
For the NHAI	:	Mrs. Soni Srivastava, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 20-06-2024 Heard Mr. Harshvardhan Shivsundaram, learned counsel for the petitioners, Mrs. Soni Srivasatava, learned counsel representing the National Highway Authority of India (henceforth for short, 'the NHAI') as also Ms. Dimpal Kumari, learned AC to GP-11.

2. The present petition has been preferred for the following reliefs:

(i) to issue appropriate direction, order or writ in the nature of Certiorari quashing the letter no. 1119 dated 17.11.2023 issued by the District Land



Acquisition Officer, Samastipur by which the matter of compensation to the petitioners has wrongly been referred to the learned Court of District Judge, Samastipur under section 3H (4) of the National Highways Act, 1956;

(ii) to issue appropriate direction, order or writ in the nature of Mandamus directing the respondents particularly respondent no. 3, i.e. District Land Acquisition Officer, Samastipur to pay compensation/award amount to the petitioners in terms of award no. 14 dated 12.03.2022 in consideration of acquisition of their residential land for construction of national highway (NH-119D) under Bharatmala Project (from km 32.000 to km 65.000 of Hajipur Darbhanga section);

(iii) to grant ad-interim stay on operation of the impugned letter dated 17.11.2023.

3. Learned counsel for the petitioner submits that there is no dispute regarding the payment of compensation amount between the parties but instead of clearing the amount, the respondent no. 3, the District Land Acquisition Officer, Samastipur only to delay the payment process referred the matter to the Court of District Judge, Samastipur under section 3H(4) of the National Highway Act, 1956 (henceforth for short,



‘the 1956 Act’).

4. He submits that although the reference was made in the month of November, 2023, despite passage of eight months, the matter is still pending before the Court of District Judge, Samastipur.

5. Mrs. Soni Srivastava, learned counsel representing ‘the NHAI’, on the other hand submits that in case there is any dispute, the respondents are fully justified in referring the matter which has been done in the present case by referring the matter to the District Judge, Samastipur. Though she agrees that the same could have been taken up to its logical conclusion within a time frame.

6. She further submits that amongst the claimants which find incorporated in the reference of the District Land Acquisition Officer, Samastipur (Annexure P-6), the name of the petitioner no. 3 is missing. She submits that there are number of claimants as seen from the reference but only two petitioners are here which means the rest of the claimants have no objection to the reference.

7. This Court has gone through the facts of the case, the submissions of the rival parties and the materials on record. Section 3H of ‘the 1956 Act’ read as follows:



“3-H. Deposit and payment of amount.-(1) The amount determined under section 3-G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 3-G by the arbitrator is in excess of the amount determined by the



competent authority, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 3-D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.”

8. A perusal of the reference made by the District Land Acquisition Officer, Samastipur shows that having found disputes, he deemed it appropriate to refer the matter to the District Judge, Samastipur which cannot be faulted upon.

9. This Court also takes note of the submission put forward by Ms. Srivastava and finds that only two of the claimants are before this Court which clearly show the dispute on the claim put forward therein regarding payment of compensation amount. Petitioner no. 3 is not the claimant in the Reference. In that background, the DLAO, Samastipur was



justified in referring the matter to the District Judge, Samastipur under section 3H(4) of ‘the 1956 Act’.

10. However, now that the reference has been made, it would be appropriate that the two petitioners herein as also the other claimants appear before the District Judge, Samastipur, if still not appeared alongwith their documents and once they appear, the District Judge, Samastipur is supposed to take the matter to its logical conclusion preferably within a period of four months thereafter.

11. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

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