

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8897 of 2021

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1. Akhouri Arun Kumar Singh S/o Late Akhouri Madan Mohan Singh R/o Village and P.O. Churamanpur, P.S.- Buxar Industrial, District- Buxar, Bihar, presently residing at Nandan Homes Apartment, A-32, Khajpura, Bailey Road, P.S.- Shashtri Nagar, District- Patna.
 2. Akhouri Ashok Kumar Singh S/o Late Akhouri Madan Mohan Singh R/o Village and P.O. Churamanpur, P.S.- Buxar Industrial, District- Buxar, Bihar, presently residing at Nandan Homes Apartment, A-32, Khajpura, Bailey Road, P.S.- Shashtri Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The Union of India through the Managing Director, National Highway Authority of India, New Delhi.
2. The Project Director, NHAI (NH-84), Maqbool Alam Road, Varanasi.
3. The Regional Officer, NHAI, D-63, 1st Floor, Rajesh Kumar Path, S.K. Puri, Boring Road, Patna-1.
4. The State of Bihar through the District Magistrate, Buxar.
5. The Competent Authority-cum-DCLR, Buxar.
6. The Circle Officer, Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Nikhil Kumar Agrawal, Advocate
For the Respondent/s	:	Md. Faiz Ahmed, AC to GP 14
For UOI	:	Mr. Arjun Kumar, CGC
For NHAI	:	Mr. Kumar Goutam, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 05-08-2024

Heard learned counsel for the petitioners, learned
counsel appearing on behalf of Union of India, National
Highway Authority of India as well as for the State.

2. The present writ petition has been filed for the
following reliefs:-

i) To issue an appropriate writ/order/direction in the nature of Certiorari quashing the order dated 07.09.2020 (Anx-3) passed by Respondent No. 5 whereby and whereunder the Respondents are seeking to recover the amount of compensation paid to the Petitioners;



ii) To issue an appropriate writ/order/direction in the nature of Mandamus declaring that the amount of compensation must be determined in terms of the spot/site verification and the report of the six man committee;

iii) To issue an appropriate writ/order/direction in the nature of Mandamus commanding the Respondents to release the compensation amount for the entire area of land acquired by the Respondents by considering the nature of the land as 'Commercial' in terms of the six man committee report and spot verification.

iv) To issue an appropriate writ/order/direction in the nature of Mandamus commanding the Respondents not to recover the amount of compensation paid in the year 2018 to the Petitioners;

v) To stay the order dated 07.09.2020 passed by Respondent No. 5 during the pendency of this writ application;

vi) To any other relief or reliefs for which the Petitioners are found entitled to in the facts and circumstances of the case.

3. Learned counsel for the petitioners submits that the land of the petitioners were acquired for the purpose of the four-laning of N.H. 84 in the district of Buxar, the National Highways Authority of India (NHAI), exercising its power under NHAI Act, 1956, had issued the necessary notifications in the Official Gazette for acquisition of land. The land of the petitioners were acquired by the competent authority and the details of the said land are as follows:-

a. **Petitioner No. 1-** Mauza – Churamanpur, Thana – 353;



Khesra No. 1440; Area – 0.06 hectare.

b. **Petitioner No. 2-** Mauza – Churamanpur, Thana – 353;
Khesra No. 1440; Area – 0.06 hectare.

4. Learned counsel for the petitioners submits that after completing of the formalities, the petitioners have received a partial compensation amount of Rs. 20,57,471/- each (after deduction of TDS) by categorising the land of the petitioners under the head of ‘residential’ land instead of ‘commercial’. He further submits that after the aforesaid exercise, the matter of the petitioners and other similarly situated persons were sent to the Six-Man Committee which was constituted in order to verify and deal with all the objections related to the nature of lands to be acquired. And after the report of the Six-Man Committee, the District Land Acquisition Officer/competent authority had issued order dated 07.09.2020 directing the petitioners to refund an amount of Rs. 10,99,494/- each allegedly paid in excess to the petitioners.

5. Learned counsel for the respondents have taken a primary objection with regard to the maintainability of the present writ petition and submits that the petitioners have not challenged the Six-Man Committee’s report dated 29.02.2020 which declared the classification of the land in question as a



agricultural land and apart from that they submits that although the petitioners have challenged the Annexure-3 by which the District Land Acquisition Officer/competent authority had directed the petitioners to refund an amount of Rs. 10,99,494/- each, but neither the petitioners have challenged the order dated 29.02.2020 nor they have made the District Land Acquisition Officer as a party respondent in the present writ petition which is also evident from the array of the party.

6. The Hon'ble Apex Court in the case of **Jagtu Vs. Suraj Mal and Others, reported in (2010) 13 Supreme Court Cases 769**, referring to the paragraph-6, which reads as follows:-

“6.The trial court framed a large number of issues including the issue of maintainability of the suit for non-joinder of the necessary parties. After considering the case in totality, the trial court recorded the finding on the said issue that the suit was not maintainable for want of necessary parties and the suit was dismissed.”

7. The Hon'ble Apex Court also in the case of **J.S.Yadav Vs. State of Uttar Pradesh and Another, reported in(2011) 6 Supreme Court Cases 570**, referring to the paragraph-31, which reads as follows:-

“31. No order can be passed behind the back of a person adversely affecting him and such an order if passed, is liable to be ignored being not binding on such a party as the same has been passed in violation of the principles of natural justice. The



principles enshrined in the proviso to Order 1 Rule 9 of the Code of Civil Procedure, 1908 provide that impleadment of a necessary party is mandatory and in case of non-joinder of necessary party, the petitioner-plaintiff may not be entitled for the relief sought by him. The litigant has to ensure that the necessary party is before the court, be it a plaintiff or a defendant, otherwise the proceedings will have to fail.”

8. It appears that the petitioners have neither challenged the order dated 29.02.2020 passed by the Six-Man Committee which suggests that the land in question is a agricultural land nor the petitioners have made the District Land Acquisition Officer as a party respondent in the present writ petition.

9. In absence of the necessary party as well as the aforesaid pronouncement of the Apex Court with regard to necessary party, this Court is left with no other option except to dismiss the present writ petition for want of non-joinder of necessary party.

10. Accordingly, the present writ petition stands dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.08.2024
Transmission Date	NA

