

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7705 of 2016

1. Upendra Mahto, son of Late Ramsevak Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
2. Amardeep Mahto son of Late Charitra Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
3. Om Prakash Mahto son of Late Budhu Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
4. Prabhu Mahto son of Late Biso Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
5. Ramu Mahto son of Late Lalo Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
6. Rambabu Mahto son of Late Shiv Nath Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
7. Jagdish Mahto son of Late Balgovind Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
8. Mukesh Kumar son of Late Suresh Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
9. Arvind Mahto son of Late Sone Lal Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
10. Sitaram Mahto son of Late Mehi Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
11. Mahendra Mahto son of Late Ramsevak Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
12. Hareram Mahto son of Late Raghunath Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
13. Rambalak Mahto son of Late Dilchand Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
14. Saudagar Mahto son of Late Mehi Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
15. Mahesh Mahto son of Late Ganeshi Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
16. Shankar Mahto son of Late Sibu Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
17. Yogendra Mahto son of Late Ramsevak Mahto resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
18. Md. Phul Babu Khan son of Late Iliyas Khan resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
19. Md. Sangeen Khan son of Late Iliyas Khan resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
20. Mahesh Malakar son of Late Basudeo Malakar resident of village - Mali Tola Muzaffara, P.O. Muzaffara, P.S. Birpur, District - Begusarai.



21. Abhinav Malakar son of Late Basudeo Malakar resident of village - Mali Tola Muzaffara, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
22. Ram Naresh Malakar son of Late Ramsagar Malakar resident of village - Mali Tola Muzaffara, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
23. Subodh Malakar son of Rambilash Malakar resident of village - Mali Tola Muzaffara, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
24. Shambhu Mahto son of Prakash Mahto resident of village - Mali Tola Muzaffara, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
25. Kusho Mahto son of Late Babu Lal Mahto resident of village - Mali Tola Muzaffara, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
26. Tayab Sah son of Late Hamid Sah resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
27. Bindeshwari Yadav son of Late Dhanik Yadav resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.
28. Jagdish Yadav son of Late Dhanik Yadav resident of village - Kushal Tola Bhawanpur, P.O. Muzaffara, P.S. Birpur, District - Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Revenue-cum-Land Reforms Department (Land Acquisition Directorate), Government of Bihar, Patna.
2. The Principal Secretary, Revenue-cum-Land Reforms Department (Land Acquisition Directorate), Government of Bihar, Patna.
3. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
4. The District Magistrate-cum-Collector, Begusarai.
5. Additional Collector, Begusarai.
6. District Land Acquisition Officer, Begusarai.
7. Additional District Land Acquisition Officer, Begusarai.
8. The Executive Engineer, Road Construction Department, Road Division, Begusarai.

... .. Respondent/s

Appearance :

For the Petitioners	:	Mr. Ashish Giri, Advocate Mr. Sumit Kr. Jha, Advocate Ms. Riya Giri, Advocate Mr. Ravi Bhushan Bharat, Advocate Mr. Bivutosh Kr., Advocate
For the State	:	Mr. Sarvesh Kr. Singh, AAG-13

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER



2 09-01-2024

1. Heard learned counsels for the parties.

2. This writ application has been filed for the following reliefs:-

“i) To hold and declare the entire acquisition proceeding bearing Case No.12/84-85 for 2.614 acre of land in village-Bhawanandpur, Thana No.445 District-Begusarai as instituted by the respondent State in relation to the properties of the petitioners concern to have been lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

ii) To hold and the entire acquisition proceeding bearing Case No.12/84-85 as instituted by the respondent State in relation to the properties of the petitioners concern to have been lapsed also in light of Section 11A of the Land Acquisition Act, 1894 as no award has been made uptil now since passing of the notification of publication in the year 1985 and declaration in the year 1986.

iii) To hold and declare that in light of Section 17(3-A) of the Land Acquisition Act, 1894, taking of the possession of the property of the petitioners without tendering payment of 80 percentum of the compensation is illegal and therefore no possession in the eyes of law.

iv) To issue an appropriate writ/order/direction in the nature of Mandamus directing the respondent authorities to provide the cost of acquisition as define under Section 3(i) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as the respondent State has



already constructed the road on the acquired property of the petitioners without making any award and without payment of any compensation thereafter.

- v) To issue an appropriate writ/order/direction in the nature of Mandamus directing the respondent authorities to pass an award under the new Act on the basis of the current market value of the lands in question in light of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and compensate the petitioners accordingly.
- vi) To issue an appropriate writ/order/direction in the nature of Mandamus directing the respondent authorities to also award solatium as per Section 30 of the new Act, interest @ 15% in light of Section 80 of the new Act read with Section 34 of the erstwhile Land Acquisition Act, 1894.
- vii) To any other relief or reliefs for which the petitioners is found to be entitled in the facts and circumstances of the case.”

3. A counter-affidavit has been filed in this case on behalf of the Executive Engineer, Road Construction Department, Road Division, Begusarai (Respondent No. 8). Paragraph Nos. 6 & 7 of the said counter-affidavit reads as follows:-

“6. That, due to enquiry survey and other long process, the old project lapsed, again the process of fresh proceeding has been initiated in present scenario of entire constructed road according to new rules the Right



to Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013.

7. That a fresh acquisition of land in the case of Mauza Bhavanandpur, Thana No-445 for 2.2513 acre through Respondent no-8 office Letter No-862 (E) dated-28.07.2017 was sent to District Magistrate, Begusarai (Respondent No-04) in the reference of District Magistrate, Begusarai (Respondent No-04) in the reference of District Magistrate, Begusarai (Respondent NO-04) Letter No-200 dated 15.06.2017. After receiving the valuation estimate for concerned land of thana no-445 from DLAO, Begusarai (Respondent no-06) Vide letter No-56 dated – 24.01.2019 Sanctioning of Estimate of compensation of Land acquisition for the concerned land for thana no-445 is in the process. It is to mention that Petitioners demand for compensation of land acquisition is under process. After completion of above mentioned process, fund available to will be made available to DLAO, Begusarai (Respondent no. 6) for payment to petitioner.”

4. Learned counsel appearing on behalf of the petitioners requests for disposal of the present writ application in light of the statements made in Paragraph Nos. 6 & 7 of the counter-affidavit filed on behalf of the Executive Engineer, Road Construction Department, Road Division, Begusarai (Respondent No. 8).

5. In light of the above statement made in paragraph Nos. 6 & 7 of the counter-affidavit filed on behalf of the



Executive Engineer, Road Construction Department, Road Division, Begusarai (Respondent No. 8), respondents are directed to complete the process and pay compensation to the petitioners under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as early as possible.

6. With the aforesaid directions and observations, this writ application is disposed of.

(Prabhat Kumar Singh, J)

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