

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2918 of 2021

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1. Md. Affan Shaukat Najmi son of late Abdul hannan Najm Resident of village Nadaul, P.S. Masaurhi, District- Patna
 2. Jinat Ara Resident of village Nadaul, P.S. Masaurhi, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Director Land Reforms Department, Bihar, Patna
2. The Principal Secretary National Highway Bihar, Patna
3. The Divisional Commissioner Patna Division-Cum first Appellate Authority.
4. The District Magistrate Patna
5. The District Land Acquisition Officer Patna
6. The Public Grievance Redressal Officer Patna
7. The Anchal Adhikari Masaurhi Anchal, District- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Md. Anisur Rahman, Adv
For the Respondent/s : Mr. Birendra Prasad Singh, AC to SC-19

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

7 21-10-2024 1. Heard learned counsel for the petitioners and learned
AC to SC-19.

2. Learned counsel for the petitioners submits that petitioners purchased land pertaining to Khata No. 345, Thana No. 251, Khesra No. 265, area 8.5 Dhur, i.e., 578 square feet at village Nadaul, P.S- Masaurhi from one Janki Vishwakarma vide Sale Deed No. 3907 dated 21-11-2007 (Annexure-1), the land after purchase was mutated in name of the petitioners and Jamabandi No. 215 was created (Annexure-2), thereafter land possession certificate dated 24-9-2015 (Annexure-2/A) was



issued by the C.O. The learned counsel for the petitioners next submits that the land was acquired by the land acquisition case No. 73/2012-13 for construction of NH-83 (four lane), i.e., Gaya Dobhi Road. Learned counsel next submits that after acquisition, petitioners represented vide their representation dated 28-4-2011 along with an affidavit (Annexures 3, 3/A) that after acquisition the petitioners will become landless but if compensation is paid at the rate of 60% instead of 30% in view of new Rule 2007, they will have no objection. The learned counsel next submits that the entire land of the petitioners measuring 578 square feet was acquired but they have been given compensation only with respect to 150 square feet of land, as such, compensation with regard to 428 square feet of land is yet to be paid. It is submitted that petitioners thus represented before the District Land Acquisition Officer several times seeking compensation by their representation dated 2-7-2016, 21-3-2017, 5-6-2018 and 17-1-2019 (Annexures- 4, 5, 6, 6/A), but their representation was not acted upon, thereafter on 24-10-2018, a petition was filed before the Public Grievance Redressal Officer (Annexure-7) for taking appropriate action for payment of the left over compensation with respect to the acquired land, the said application dated 24-10-2018 was rejected by an order



dated 16-1-2019 (Annexure 8) behind the back of the petitioners, merely on the assertion of District Land Acquisition Officer that payment has been made and credited in the account of the petitioners. The petitioners against the order dated 16-1-2019 passed by the Public Grievance Redressal Officer filed an appeal before the first Appellate Authority-cum-Divisional Commissioner, Patna on 12-9-2019 (Annexure-9) but the appeal was disposed of by an order dated 3-10-2019 (Annexure-10) without considering the case of the petitioners on the assertion and report of the District Land Acquisition Officer.

3. The learned counsel for the petitioners submits that that petitioners being aggrieved by the fact that compensation for the entire land acquired has not been paid to them nor their representation was acted upon by the District Land Acquisition Officer, as such, they moved before the Public Grievance Redressal Officer seeking a direction upon the District Land Acquisition Officer to consider their case, which came to be rejected, against which the petitioners moved before the Divisional Commissioner, who is the first appellate authority, who also affirmed the order of the Public Grievance Redressal Officer without considering the case of the petitioners in its correct perspective.



4. The learned AC to SC-19 submits that the land was acquired under the National Highways Act (hereinafter referred to as 'N.H. Act'). It is further submitted that if petitioners were aggrieved by the fact that their compensation has not been paid with respect to the entire land acquired, in that event, they had a remedy of moving before the Commissioner-cum-Arbitrator, the competent authority under the N.H. Act, for resolving such disputes. It is also submitted that counter-affidavit has been filed on behalf of the state authority wherein the claim of the petitioners stands declined. It is next submitted that petitioners instead of moving before the competent forum for getting their dispute resolved, approached the forum which had no jurisdiction to entertain such grievance of the petitioners, i.e., the Public Grievance Redressal Officer. It is also submitted that Commissioner, who is an authority in terms of the N.H. Act to arbitrate, ought not to have entertained the appeal of the petitioners against the order of the Public Grievance Redressal Officer, on the ground that the order passed by the Public Grievance Redressal Officer was without jurisdiction.

5. The learned counsel appearing on behalf of the petitioners, at this stage, fairly submits that the petitioners had chosen the wrong forum for getting their grievance redressed. It



is submitted that the proper forum for getting the dispute resolved was under Section 3G-(5) of the N.H. Act 1956, whereby the Commissioner has been made the authority competent for resolving such dispute.

6. At this stage, the learned counsel appearing on behalf of the State fairly submits that a counter-affidavit on behalf of the District Magistrate, Patna, has been filed wherein it has been specifically stated that the petitioners have been paid compensation with respect to the land acquired but still if the petitioners feel aggrieved, they can move before the Commissioner-cum-Arbitrator, the authority competent under the N.H. Act.

7. After hearing the learned counsel for the parties, the order dated 16-1-2019 passed by the Public Grievance Redressal Officer, Patna is held to be without jurisdiction, accordingly the order is set aside, consequently the order passed in appeal by the Commissioner dated 3-10-2019 is also set aside.

8. After considering the submissions made by the learned counsel for the parties, the writ application is disposed of with a direction to the petitioners to move before the competent authority under the N.H. Act, i.e., Commissioner-



cum-Arbitrator for seeking redressal of their grievance.

9. If the petitioners file an application before the Commissioner-cum-Arbitrator within 45 days from today seeking adjudication of the dispute, the Court expects that the Commissioner-cum-Arbitrator shall adjudicate the dispute within a period of 9 months from the date the petitioners filed their application.

10. It is made clear that the Court has not expressed any opinion on merits of the case.

(Satyavrat Verma, J)

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