

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11605 of 2024

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1. Karmshil Priyadarshi Son of Late Surma Sharma, Resident of Village- Maur, P.S.- Barbiga, District- Sheikhpura.
 2. Shyamali Sharan, Son of Kapil Dev Narayan Singh, Resident of Village- Maur, P.S.- Barbiga, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The Collector-cum-District Magistrate, Sheikhpura.
3. The Additional Collector, Sheikhpura.
4. The District Land Acquisition of Officers, Sheikhpura.
5. The Circle Officer, Barbiga, Sheikhpura.
6. Union of India, through the General Manager, East Central Railway Danapur, Patna.
7. The Divisional Railway Manager, East Central Railway Danapur, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Himanshu Kumar Akela, Advocate
For the Respondent/s : AC to GP-17

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 26-11-2024 Heard learned counsel for the petitioners, learned AC to GP-17 and Mr. Mithilesh Kumar Gupta, learned counsel appearing on behalf of the Union of India.

2. The learned counsel for the petitioners at the outset submits that Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 incorporates that where no award under section 11 of the Land Acquisition Act, 1894 has been made, then, all provisions of L.A. Act, 2013 shall apply relating to



determination of compensation.

3. It is next submitted that land pertaining to plot no.2337 and 2327 both under Khata no.91, area 23.5 decimal and 2.5 decimal respectively along with plot no.2402 under khata no.416 at Mauza-Narayanpur, Chadar-2, Pargana-Maldah, Thana No.62, District-Sheikhpura belongs to petitioner no.1, similarly land pertaining to plot no.2413, khata no.27 at Mauza-Narayanpur, Chadar-2, Pargana-Maldah, Thana No.62, District-Sheikhpura belongs to the petitioner no.2.

4. It is submitted that the lands of the petitioners were acquired under the L.A. Act, 1894 in the year 2007 for construction of Daniyawan, Barbigha, Sheikhpura Railway Line. It is next submitted that the land were acquired by invoking the urgency clause under section 17(4) of the L.A. Act, 1894, as such petitioners were not given the opportunity to file their objection under Section 5 of the L.A. Act, 1894.

5. It is submitted that no doubt urgency clause was invoked for acquiring the land, but then possession of the land was not taken, as such compensation was also not paid. It is next submitted that the award was prepared on 30.11.2015, based on the market value of a land existing in the year 2007, next submits that until award was prepared on 30.11.2015, neither



possession of the land was taken nor payment of compensation offered and in that background the decision of this Court in CWJC No.3860 of 2015 (Ranjit Kumar & Ors. Vs. The State of Bihar & Ors.) decided by a learned Single Judge on 10.04.2019 becomes relevant. It is submitted that the case of the petitioners is akin to the case of Ranjit Kumar & Ors., as lands of Ranjit Kumar & Ors. were also of the same place as would manifest from para-8 of the order dated 10.04.2019 in CWJC No.3860 of 2015.

6. It is next submitted that a Co-ordinate Bench subsequently also followed the order dated 10.04.2019 in CWJC No.3860 of 2015 in the case of Janardhan Pathak & Ors. The State of Bihar & Ors. (CWJC No.21796 of 2019 (Annexure-P/7 Series). The learned counsel next draws the attention of the Court to para-40 of the order dated 10.04.2019 in CWJC No.3860 of 2015.

“40. I have, thus, no hesitation in concluding, in view of the aforesaid discussions that: - (i) in a case where the land acquisition proceedings had commenced under the provisions of L.A. Act, 1894, but award was not made prior to 01.01.2014, under Section 11 of the said Act, all provisions of the L.A. Act, 2013 shall apply



for determination of the amount of compensation and the date of determination of market value of the land should be treated as 01.01.2014 in the light of the decision of the Central Government as contained in letter/communication dated 26.10.2015 (supra).

(ii) requirement of laying any order before the Parliament under sub-Section (2) of Section 113 of the L.A. Act, 2013, is directory in nature for default of which the order passed under Section 113 of the L.A. Act, 2013, cannot be said to be inoperative or invalid.”

7. It is thus submitted that in view of para-40 of the judgment dated 10.04.2019 in CWJC No.3860 of 2015, the petitioners are also entitled for compensation in terms of L.A. Act, 2013.

8. The learned counsel appearing on behalf of the State submits that a counter affidavit has been filed on behalf of respondent no.2 to 5, wherein it has been specifically pleaded that petitioner no.1 has received his entire compensation and petitioner no.2 has received 80% of the compensation, on query of the Court that as to when the compensation was received by the petitioners, the learned counsel appearing on behalf of the



State fairly submits that the date on which the compensation was given to the petitioners is not pleaded in the counter affidavit.

9. The learned counsel appearing on behalf of the petitioners does not dispute the said submission of the learned counsel appearing on behalf of the State, but then submits that petitioner no.1 received the entire compensation in the year 2020 and the petitioner no.2 also in the year 2020 received 80% of the compensation i.e. after the award was prepared in the year 2015.

10. It is next submitted that the award which was prepared on 30.11.2015 had calculated the value of the land based on the market rate which was prevailing in the year 2007 when it ought to have been calculated in terms of Section 24(1) of the L.A. Act, 2013 as Section 24(1) of the LA Act, 2013 mandates that where no award under Section 11 of the LA Act, 1894 has been made, then all provisions of LA Act, 2013 shall apply relating to determination of compensation.

11. The Court after hearing the learned counsel for the parties and without going into merits of the case directs the petitioners to approach the authority under Section 64 of the Land Acquisition Act, 2013 within a period of four weeks from



today for determination of amount of compensation, further the issue of delay in approaching the Collector under Section 64 of the LA Act, 2013 should not come in the way of the petitioners while entertaining their application.

12. Accordingly, the writ petition is allowed. The Land Acquisition, Rehabilitation and Settlement Authority, Munger will decide the matter in accordance with law within a period of six months from the date of filing of the application by the petitioners.

(Satyavrat Verma, J)

Prakash Narayan

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