

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11969 of 2024

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1. Mukesh Kumar Singh @ Mukesh Kumar
 2. Chandra Shekhar Singh

Both are Sons of Late Kapildev Singh Resident of Village- Sherpar, P.S.-
Barbigha, District- Shekhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through 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, Barbigha, 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
		Mr. Ramadhar Shekhar, Adv., CGC

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. Ramadhar Shekhar, 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.1107 and 1107 both under Khata no.183, measuring 5-1/8 decimal and 5-1/8 decimal respectively at Mauza-Narayanpur, Chadar-1, Pargana-Maldah, Thana No.62, District-Sheikhpura belongs to petitioners.

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 Daniyawar, Barbigha, Sheikhpura Railway Line. It is next submitted that the lands 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 next 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, further 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 on behalf of respondent no.2 to 5 has been filed, wherein it is pleaded that petitioners have approached this Court after receiving the entire 100% 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 asserts and submits that the compensation was given to the petitioners in the year 2020 i.e. after the award was prepared on 30.11.2015.

10. It is next submitted that though land was acquired in the year 2007, but then the authority had not taken the possession as such the compensation was not offered and the compensation was given in the year 2020 only after the award was prepared, but then it is submitted that the award was prepared based on the market value of the land as existing in the year 2007 when in terms of Section 24(1) of the L.A. Act, 2013 the compensation had to be decided in terms of the LA Act, 2013.

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 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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