

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11528 of 2024

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1. Basant Sharma, S/o Mithilesh Sharma, R/o Sendhwa, P.O. - Sendhwa (Jhunathi), P.S. Parasbigaha, District- Jehanabad (Bihar).
 2. Sushil Kumar, S/o Mithilesh Sharma, R/o Sendhwa, P.O. - Sendhwa (Jhunathi), P.S. Parasbigaha, District- Jehanabad (Bihar).
 3. Sunil Kumar, S/o Mithilesh Sharma, R/o Sendhwa, P.O. - Sendhwa (Jhunathi), P.S. Parasbigaha, District- Jehanabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Irrigation Department (Water Resources Dept.) Govt. of Bihar, Patna.
2. The District Magistrate, Jehanabad District, Jehanabad.
3. The DCLR, Jehanabad, Jehanabad District.
4. The Executive Engineer, Irrigation Division, Jehanabad.
5. The Superintending Engineer, Irrigation Circle, Nalanda, Bhiarsharif.
6. The Circle Office, Ratni-Faridpur, Jehanabad, District- Jehanabad.
7. The Circle Amin, Ratni-Pharidpur, Jehanabad District, Jehanabad.
8. The Land Acquisition Officer, Jehanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shiw Kumar Prabhakar
For the Respondent/s	:	Mr. Standing Counsel 12

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 26-11-2024 1. Heard learned counsel for the petitioners and learned AC to SC-12 for the State.

2. The learned counsel for the petitioners submits that the instant writ application has been filed seeking writ of mandamus commanding the respondents to provide compensation to the petitioners with respect to the acquired *Raiyati* lands of the petitioners under the Scheme for



construction of Check Dam in village Sendhwa on the river Baldaiya/ Ganghar and for setting aside the order dated 31.08.2018 and the order dated 22.08.2019 passed by the District Public Grievance Redressal Authority, Jehanabad and the First Appellate Authority-cum-Commissioner, Magadh Division, Gaya respectively.

3. The learned counsel for the petitioners submits that the land pertaining to Khata No.180, Khesra No.615, area 22 decimals at Mauza- Sendhwa, P.S.- Parasbigha, District- Jehanabad is *Raiyati* land of the petitioners. The land is in the name of Jagat Singh, who was father of the grandfather of the petitioners, the name of the ancestors of the petitioners is recorded with regard to the land in Register-II.

4. The land of the petitioners without acquisition was used in construction of Check Dam on river Baldaiya/ Ganghar for irrigation purposes, as such, no compensation was paid. It is next submitted that petitioner no.1, being Karta of the family, raised grievance by his application dated 28.04.2017 (Annexure-P/4) before the Executive Engineer, Irrigation Department, Jehanabad for compensation. The Executive Engineer referred the application dated 28.04.2017 to the Circle Officer, Ratni-Pharidpur. The C.O. vide his Memo No.1069



dated 15.12.2017 (Annexure-5) directed the Circle Amin to measure the land in question. The Circle Amin measured the land on 27.12.2017 and prepared a map and submitted his report dated 11.01.2018 (Annexure-6) recording that 8.5965 decimals land of the petitioners have been used in the aforesaid project. It is submitted that after the report of the Amin dated 11.01.2018 was submitted, the petitioners vide their representation dated 16.08.2018 objected the same before the District Magistrate, Jehanabad (Annexure-9). It is next submitted that from perusal of the representation dated 16.08.2018, it would manifest that the petitioners had taken a specific plea that their 17 decimals land has been used for the aforesaid project, thus were not satisfied with the report of the Amin.

5. It is next submitted that the representation of the petitioners dated 16.08.2018 was not acted upon and the C.O. vide his letter dated 23.03.2018 (Annexure-7) informed the Executive Engineer that 8.5965 decimals of land of the petitioners have been used for the project.

6. It is next submitted that since grievance of the petitioners was not redressed, as such, the petitioners moved before the District Public Grievance Redressal Authority, Jehanabad against the report of the C.O. and Amin, the District



Public Grievance Redressal Authority, Jehanabad passed an order dated 31.08.2018 (Annexure- 8) to pass necessary order finally in the matter. The petitioners thereafter moved before the First Appellate Authority that is the Divisional Commissioner, Magadh Division, Gaya to pass an order dated 22.08.2019 (Annexure-10) directing the Executive Engineer, Jehanabad to make payment of compensation on the basis of Lease Policy, 2014. The petitioners prior to moving the First Appellate Authority had also raised the grievance before the District Magistrate, Jehanabad as recorded herein above.

7. It is submitted that the Executive Engineer vide his letter dated 29.01.2020 (Annexure-11) addressed to the Superintending Engineer, Irrigation Circle, Nalanda requested for payment of compensation under Lease Policy, 2014 in view of the order of the First Appellate Authority.

8. It is next submitted that though the Amin vide his report dated 11.01.2018 had recorded that only 8.5965 decimals of land of the petitioners has been used for the project, but after the petitioners represented before the District Magistrate, Jehanabad by filing an application, it appears that a subsequent measurement of the land was undertaken by the Amin and it was found that 12.947 decimals of land of the petitioners has been



used for the aforesaid project as would manifest from Annexure-R/E to the counter-affidavit filed on behalf of the respondent nos.5 and 6.

9. The learned counsel next submits that the *Raiyati* land of the petitioners measured an area 22 decimals out of which 12.947 has been used for the aforesaid project without acquisition and compensation. It is further submitted that since 12.947 decimals of land has been used for the aforesaid project, as such, the rest of the land has been rendered useless for the purposes of agriculture as it has come inside the Dam area.

10. It is next submitted that villagers whose land has been taken in similar manner have been given compensation under Land Acquisition Act, 2013, as the land for the aforesaid project was utilized in the Year 2017, on which the Dam was constructed in the Year 2019, but then, the petitioners are being discriminated as the First Appellate Authority has directed for giving compensation to the petitioners in terms of the Lease Policy, 2014.

11. The learned counsel appearing on behalf of the petitioners next submits that under wrong advise, the petitioners moved before the District Public Grievance Redressal Authority, Jahanabad for the relief claimed in the



instant writ application as the District Public Grievance Redressal Authority does not have the mandate to decide cases relating to land acquisition, which render the order of the First Appellate Authority bad.

12. It is further submitted that since the land of the petitioners was utilized by the authorities in the Year 2017 for the aforesaid project along with the land of other villagers, but then, the petitioners till date has not been given compensation, when similarly situated villagers have been compensated in terms of:- the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013, as such, it is submitted that the petitioners be also given compensation in terms of the aforesaid Act.

13. The learned counsel appearing on behalf of the State does not dispute the submissions of the learned counsel appearing on behalf of the petitioners that 12.947 decimals of land was utilized for the aforesaid purpose without acquiring and giving compensation of the land based on the counter-affidavit filed on behalf of Respondent nos.5 and 6. The learned counsel for the State further fairly submits that the District Public Grievance Redressal Authority does not have the mandate to decide any dispute with regard to land acquisition



and thus, is not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioners that the Divisional Commissioner as First Appellate Authority had absolutely no jurisdiction to direct the authorities for compensating the petitioners in terms of the Lease Policy, 2014.

14. After hearing the learned counsel for the parties, the Court prima facie concurs with the submission of the learned counsel appearing on behalf of the petitioners, as such, the order dated 31.08.2018 passed by the District Public Grievance Redressal Authority, Jehanabad in Parivad Sankhya-433110126041801273 (Annexure-8) and order dated 22.08.2019 (Annexure-10) passed by the First Appellate Authority-cum-Commissioner, Magadh Division, Gaya are hereby quashed and the matter is remanded back to the authority competent for deciding the issue of compensation in accordance with law within a period of four months from the date of receipt/production of a copy of this order.

(Satyavrat Verma, J)

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