

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21 of 2023

- 1.1. Nilam Devi Wife of Late Prabhakar Ray @ Prabhakar Kumar Resident of Ward No. 1, Mirzapur Pamra, P.S. - Bakhari, District - Sitamarhi.
- 1.2. Sristi Suman, daughter minor through the legal guardian namely Most. Nilam Devi, Resident of Ward No. 1, Mirzapur Pamra, P.S. - Bakhari, District - Sitamarhi.
- 1.3. Manish Kumar, Son minor through the legal guardian namely Most. Nilam Devi, Resident of Ward No. 1, Mirzapur Pamra, P.S. - Bakhari, District - Sitamarhi.
- 1.4. Shivani Kumari, daughter minor through the legal guardian namely Most. Nilam Devi, Resident of Ward No. 1, Mirzapur Pamra, P.S. - Bakhari, District - Sitamarhi.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate-Cum-Collector, Sitamarhi.
4. The District Land Acquisition Officer, Sitamarhi.
5. The Additional Collector, Dumra, Sitamarhi.
6. The Circle Officer, Dumra, Sitamarhi
7. National Highway Authority of India, through the Project Director.
8. The Executive Engineer, N.H. Division, Sitamarhi.

... .. Respondents

Appearance :

For the Petitioners : Mr. Krishna Kant Singh, Advocate
For the Respondents : Mr. Md. Khurshid Alam (AAG12)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

9 12-02-2024 Learned counsel for the petitioners prays for and is allowed to implead the Executive Engineer, National Highways Division as the party-respondent no. 8.

2. Heard Mr. Krishna Kant Singh, learned counsel for the petitioners and Mr. Badar Rehman, learned AC to AAG12.

3. Learned counsel for the petitioners submits that out of 0.28 decimals of the land in question, though compensation



amount on 0.13 decimals was paid, the respondents chose not to pay the compensation for the rest 0.15 decimals and in between, the NH-104 was constructed on his land years ago. As such, beside the compensation, the petitioners are also entitled to the cost to be imposed upon the respondents.

4. A counter-affidavit has also been filed on behalf of the respondent nos. 3 and 4, duly put on affidavit by the District Land Acquisition Officer, Sitamarhi and this Court has taken note of the statements made in paragraphs 7 to 11 which are incorporated hereinbelow:

"7. That to verify the claim made by petitioner in this writ petition, Amin has been deputed by petitioner no. 4, District Land Acquisition Officer, Sitamarhi, though his office order Memo No. 389 dated 05.04.2023. Petitioner was also informed to be present during land measurement.

8. That Office Amin submitted his report on 18.04.2023, mentioning that an area measuring that an area measuring 0.041 hectares (10.13 decimals) needs to be acquired further. A letter in this regard, bearing Memo No. 578 dated 20.05.2023, has been sent to Executive Engineer, NH Division, Sitamarhi for submitting requisition for 0.041 Hectare land.

9. That Executive Engineer, NH Division, Sitamarhi submitted his requisition through letter no. 405 (anu) dated 08.06.2023.



10. That process of Gazette Notification under Section 3A of NH Act 1956 has been started by District Land Acquisition Officer, Sitamarhi on 22.06.2023 by uploading land details on Bhumi – Rashi portal of Ministry of Road Transport and Highways. For further necessary action letter bearing Memo No. 767 dated 01.07.2023 has been sent to requisitioning Authority i.e., Executive Engineer, NH Division, Sitamarhi.

11. That in view of the aforesaid it is clear that petitioner's claim for compensation of extra land, decided by actual measurement, used in road construction, has been accepted by NH Division, Sitamarhi and process of land acquisition for the same is in progress. As far as second part of relief sought in para 1 is concerned, land compensation is always decided as per guidelines of Revenue Department and Land Acquisition Act. The same principle has been followed in case of deciding compensation for petitioner's land."

5. From the aforesaid fact, it is clear that the NH Division, Sitamarhi has accepted the claim of the petitioners and only the same has to be taken to its logical conclusion.

6. Since, the letter issued by the District Land Acquisition Officer, Sitamarhi is dated 20.05.2023 and we are in the month of February, 2024 and still a decision has not been



taken, this Court is of the view that instead of keeping the writ petition pending, a positive direction is needed in the matter.

7. Accordingly, both the respondent nos. 4 and newly added respondent no. 8 i.e. the District Land Acquisition Officer, Sitamarhi and the Executive Engineer, National Highways Division are required to take immediate decision in the matter, if still not taken and ensure that the necessary payment of compensation is made to the petitioners, who are widow and family members of the original land holder.

8. It is made clear that the aforesaid decision be taken and the payment made within a period of four months from today.

9. The order has been passed in the presence of Mr. Badar Rehman, learned AC to AAG12.

10. Learned counsel for the petitioners, Mr. Krishna Kant Singh submits that a proper representation with connecting documents shall be filed within a period of four weeks from today.

(Rajiv Roy, J)

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