

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14896 of 2017

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1. Ganesh Prasad Sahu
 2. Mahesh Prasad @ Mahesh Prasad Sah Both are Sons of late Shivaji Sahu
Resident of Village- Laukaha, P.O. and P.S. Laukaha, Distt. Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Madhubani, Bihar.
3. The District Land Acquisition Officer, Madhubani, Bihar.
4. The Block Development Officer, Block- Khutauna, Distt. Madhubani, Bihar.
5. The Circle Officer, Block- Khutauna, Distt.- Madhubani,Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shekhar Harshvardhan, Advocate
For the Respondent/s : Mrs. Nutan Sahay, AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 29-04-2025 Heard the parties.

2. The present petition has been preferred for the
grant of following relief(s):

*“for issuance of appropriate writ(s), order(s), or
direction(s) to the concerned respondent for
payment of compensation amount with the
interest on commercial rate to the petitioners
whose commercial land has been acquired
through land acquisition case no. 4/2014-15 and
compensation amount on commercial rate has
been fixed Rs.25,07,901/-(Twenty five lakhs*



*seven thousand nine hundred one) through
notice no. 363 dated 30.07.2017.”*

3. A counter affidavit has come on behalf of respondent nos. 2 to 5 and learned State counsel took this Court to paragraphs 8 and 9 to show that the land of the petitioners were not found to be of commercial use and they also failed to bring on record the document to support the case and in that background, cheques of Rs.4,07,533/- each was presented to both the petitioners who refused to accept the same and in that background, no payment could be made.

4. Learned State counsel submits that though they/these two brothers genuinely claim themselves to be heirs, there is nothing on record nor there is any averment in the writ petition that the petitioners do not have any sister/sisters and/or other brother(s) and in that background, that part also has to be satisfied to the respondents.

5. Learned counsel for the petitioner has taken this Court to Annexure-1 of the writ petition to show that the Competent Officer-cum-District Land Acquisition Officer, Madhubani issued the certificate/notice dated 30.07.2016 declaring the Khesara No. 5903, Rakwa 0.03 decimal in the name of their father to be of commercial use with payment



amount of Rs.25,07,901/-.

6. The said averment is in paragraph 4 of the writ petition and the counter affidavit of the State Government duly signed by the Circle Officer, Khutauna, Madhubani to the said reply has recorded that the *averment made in paragraph 4 is not denied*. If there is no denial to the claim of the petitioners, naturally, the District Land Acquisition Officer, Madhubani-cum-Competent Officer will have to justify either of his/her decision inasmuch as whether the notice dated 30.07.2016 and/or the decision taken to pay only Rs.8,15,066/- to the two petitioners are correct.

7. Once the competent authority himself has declared the land to be commercial in nature and the counter affidavit record the same inasmuch as it has not denied the claim of the petitioners it certainly cannot go back on its stand.

8. In that background, the writ petition stands disposed of directing the respondent no.3, the District Land Acquisition Officer, Madhubani to look into the matter/the document issued by his/her own office dated 30.07.2016 (vide notice no.363) to them and take decision in the matter. The petitioners are required to submit all the relevant documents asked by the competent authority including the certificates that



beside the two brothers, there is no other heir in the family of Shivji Sahu inasmuch as the two petitioners do not have any other brother/sister.

9. The Competent-Officer-cum-District Land Acquisition Officer, Madhubani is duty bound to take a decision and pass an order in next three months and in case, they are entitled to the financial benefit, it should be extended to the petitioners in next eight weeks.

10. The writ petition stands disposed of.

(Rajiv Roy, J)

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