

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19342 of 2016

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1. Tej Narayan Tiwari and Anr S/o Late Brahmdeo Tiwari
 2. Roshan Tiwari S/o Late Vijay Tiwari Both residents of Village- Gangaili, P.S.- Banmankhi, Distt- Purnea Bihar.

... .. petitioners/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Water Resources Department, Bihar, Irrigation Bhawan, Patna.
3. The Director, Department of Land Acquisition and Rehabilitation, Bihar, Irrigation Bhawan, Patna.
4. The Collector of the District DM, Purnea.
5. The Special Land Acquisition Officer, Kosi Project, Saharsa.

... .. Respondent/s

Appearance :

For the petitioners/s : Mr.Shashi Nath Jha, Advocate
For the Respondent/s : Mrs. Nutan Sahay, AAG-12

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 21-08-2025 Heard Mr. Shashi Nath Jha, learned counsel for the
petitioners and Mrs. Nutan Sahay, learned AC to AAG-12.

2. The present petition has been preferred for the following
relief/s:

*(i) for issuance of appropriate writ/order/direction
in the nature of mandamus/certiorari against the
respondents for;*

*(ii) directing the Respondent-authorities to pay the
amount of interest over the amount of
compensation Rs.39,375/- (Thirty nine thousand*



three hundred seventy five) and 1.65,375/- (one lakh sixty five thousand three hundred seventy five) which had been paid to each of the petitioners vide Annx-1 series, and thus the existing Market rate has been denied to the petitioners;

(iii) directing the respondents-authorities either to pay themselves all the due amount of interest /solatium and other dues amounts from the day of acquisition/taking possession to the petitioners or they may refer the whole matter/case before the Land Acquisition judge, as has been prayed by the petitioners U/S 18 of the L.A. Act, 1894 vide Annx-3 hereto;

(iv) directing the respondents-authorities to allow all the prayers made by the petitioners vide Annx-3 series hereto and grant all the reliefs sought for by the petitioners therein;

(v) directing the respondents-authorities to pay the amount of compensation to the petitioners as per the current Registration rate chart, fixed by the Govt. for the year 2013-14, though the petitioners has been paid the amount of compensation as per



the very old rate meant for the agricultural land;

(vi) directing the respondents-authorities to pay the amount of compensation to the petitioners at the rate of Rs. 8,640/- per decimal but the payment has been made to the petitioners arbitrarily only at the rate of 3,000/- per decimal which is unjust;

(vii) directing the respondents-authorities to pay compensation to the petitioners as per the new Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred to as the New Act 2013) which entitles the amount of compensation four times to the Government fixed price;

(viii) directing the respondents-authorities to treat the acquired plots in question as residential and to pay the amount of compensation as per the updated residential rate and the Market rate already fixed by the government in view of the said New Act 2013;

(ix) directing the respondent-authorities to meet all irreparable losses/ grievances which have caused to the petitioners due to the delayed payments made to the petitioners recently vide Annx-2 after about



24 years of acquisition/taking possession, as the acquisition of the lands in question took place in the year 1988-89 itself;

(x) holding and declaring that the Resp. no.5 has no jurisdiction to keep pending the petitions of the petitioners filed U/S 18 of the L.A. Act, 1894 vide Annx- 3 series hereto;

(xi) holding and declaring also that all the acquired plots are residential in nature, and the petitioners have been denied even the updated agricultural rate and interest already fixed by the Government;

(xii) holding that the petitioners are entitled to the amount of compensation as per the market rate (laid down under Section 23 of L.A. Act, 1894 & section 26 of New Act, 2013) as well as other amount of Bonus and interest over the total amount;

(xiii) granting any other relief/reliefs for which the petitioners may be found entitled to.

3. A counter affidavit has come on behalf of respondent nos. 1 to 5 duly put on affidavit by Special Land Acquisition Officer, Koshi



Project, Saharsa and learned AC to AAG-12 took this Court to para-6 which read as follows:

6. That it is pertinent to mention here after due process of Land Acquisition Act land in question was acquired and as such notice was issued u/s 9 of the land Acquisition Act 1894 vide Memo no. 9480 dated 18.6.2012 to the petitioner. They have received the aforesaid notice on 9.7.2012 but they were not filed any objection u/s 5 (A) of the Land Acquisition Act with respect to compensation of land in question as such they had accepted the land Acquisition proceeding which was acquired for public purpose.

4. This counter affidavit was served upon the petitioners on 02.02.2017 and there is no rebuttal to the said facts recorded in the counter affidavit.

5. Learned counsel for the petitioners submits that they shall be taking steps under section 18 of the Land Acquisition Act, 1894 (henceforth for short 'the Act') for the redressal of the grievance.

7. Section 18 of 'the Act' read as follows:

18. Reference to Court-- (1) Any person



interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collectors award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collectors award, whichever period shall first expire.

6. In that background, this Court grants liberty to the petitioners to approach the competent Court under the aforesaid Act. Needless to add if such petition is preferred within eight weeks from today, the Court concerned shall take into consideration the delay in



filing the petition as the writ petition was pending before this Court for nine long years while dealing with the limitation petition.

7. The writ petition is disposed of with the aforesaid.

(Rajiv Roy, J)

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