

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8748 of 2019

- 1.1. Deepak Kumar Mishra S/o Late Ram Kumr Mishra R/o Village - Ward no. -1, Near Pokhar Dath Khurd, P.O. - Bharwari, P.S.- Hasanpur, District-Samastipur.
- 1.2. Deegu Kumar Mishra S/o Late Ram Kumar Mishra, R/o Village - Ward no. -1, Near Pokhar Dath Khurd, P.O. - Bharwari, P.S.- Hasanpur, District-Samastipur.
- 1.3. Raja Kumar Mishra S/o Late Ram Kumar Mishra R/o Village - Ward no. -1, Near Pokhar Dath Khurd, P.O. - Bharwari, P.S.- Hasanpur, District-Samastipur.
2. Shyam Murari Mishra Son of Late babu Prasad Mishra resident of Village-Dath, P.O.-Bharbari, P.S.-Hasanpur, District-Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Road Construction Department, Government of Bihar, Patna
2. The District Magistrate Cum-Collector, Samastipur.
3. The District Land Acquisition Officer, Samastipur.
4. The Circle Officer, Hasanpur, Samastipur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mrs. Shashi Priya Pathak, Advocate

Mr. Ambrish Kr. Jha, Advocate

For the Respondent/s : Mrs. Dr. Shobha Choubey, AC to GP- 19

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 03-07-2025

Heard learned counsel for the petitioners and
learned counsel for the State.

2. The present writ petition has been filed for the
following reliefs:-



(i) Issuance of an order, direction or writ in the nature of certiorari to quash the order dated 08-01-2019 passed in Misc. case no. 3/2019 by the court of District Collector, Samastipur whereby and where under the Respondent no-2 rejected the claim of the petitioners for compensation amount of their acquired land, on the ground of delay/ limitation.

(ii) Issuance of an order, direction or writ in the nature of mandamus directing to the respondents to pay the compensation amount along with appropriate interest to the petitioners for their land, which has been acquired by the state Government by Gazette notification dated 01-04-1976 as well as Notification No. 2 (BHU.AA) dated 08-04-1979 for extension of Sahpur-Hasanpur Path.

(iii) Any other relief of reliefs to which the petitioner may found entitled to in the facts and circumstances of this case.

3. Learned counsel for the petitioners submits that in the year 1976, the State Government issued a notice to the father of the petitioners under the project for the extension of the Sahpur-Hasanpur Path, relating to 2.897 acres of land, with a view to widening the path. The petitioners' land was subject



to acquisition, 14 decimals of land in Khesra No. 24 and 14 decimals of land in Khesra No. 25. Counsel further submits that the State Government also issued a Gazette notification regarding the acquisition of 2.897 acres of land situated in Village Dath, Pargana Hamidpur, P.S. Rosra, P.S. No. 85, for the extension/widening of the Sahpur-Hasanpur Path. Counsel further submits that respondent No. 2 published the old and newly added Khata and Khesra numbers of the acquired land vide letter No. 11 dated 05.05.1976.

4. Counsel further submits that the father of the petitioners again received a notice dated 06.04.1979, issued under the signature of the Collector, Samastipur. From the said notice, it becomes evident that a total of 28 decimals of land belonging to the father of the petitioners, situated in the aforementioned Mauja, had been acquired under the said notification. The father of the petitioners was called upon to appear on 25.04.1979 at around 12 noon at the Kabir Ashram Bharbara Office for showing entitlement and interest of the said land and to make a claim for compensation.

5. Counsel further submits that the father of the petitioners complied with the notice and appeared before the authority, however, only an assurance was given that the



Government would make the payment of compensation in near future. Thereafter, the concerned department proceeded with construction on the said land, which has since been completed, but the compensation amount has not been paid by the State Government till date.

6. Counsel further submits that the father of the petitioners approached the concerned authorities multiple times, both in person and in writing, seeking payment of compensation. However, the respondents only gave assurances and failed to make any compensation.

7. It is further submitted that other persons whose lands were also acquired for the same purpose under LA Case No. 15/74-75/4/79-80 have been paid compensation. Counsel further submits that the father of petitioner No. 1 died in 2016, and the father of petitioner No. 2 died on 17.01.2017. Thereafter, the petitioners filed Misc. Case No. 03 of 2019 seeking compensation for the acquired land. However, the said case was dismissed by respondent No. 2 through an order dated 08.01.2019 on the ground of delay in filing the claim.

8. Being aggrieved and dissatisfied with the order dated 08.01.2019 passed in Misc. Case No. 03 of 2019, the petitioners have preferred the present writ petition, seeking



payment of compensation for the land acquired by the State Government.

9. Counsel further submits that similarly situated person, whose land was also acquired under the same Land Acquisition Case No. 7 of 1976, had approached this Hon'ble Court challenging the same order dated 08.01.2019, by which the claim of the petitioner's co-villagers was rejected. They had preferred CWJC No. 8408 of 2019, which was dismissed. Thereafter, the said petitioners preferred an L.P.A. before this Hon'ble Court in L.P.A. No. 997 of 2019, which was disposed off.

10. Subsequently, the petitioners of that case approached the Hon'ble Supreme Court of India through SLP(C) No. 10492 of 2023, which was later converted into Civil Appeal No. 6351 of 2024. The said appeal was decided in favour of the petitioners, and the matter was remanded to the Hon'ble Division Bench with specific directions to pass an order on merits.

11. Thereafter, the Hon'ble Division Bench of this Court in L.P.A. No. 997 of 2019 passed a final order on 29.08.2024, directing that payment be made to the petitioners. In the light of the observations made by the Hon'ble Court, a



direction was issued that the District Collector, shall initiate proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, within a period of one month from today, determine the amount of compensation and if the appellants are satisfied, it will be disbursed. With these directions, the L.P.A. was disposed off.

12. Counsel further submits that the case of the petitioners and that of *Dharnidhar Mishra & Anr.*, decided in *Civil Appeal No. 6351 of 2024*, are identical, as both cases have basically arisen from the same acquisition proceeding, i.e., L.A. Case No. 7 of 1976. Counsel further submits that both the petitioners and Dharnidhar Mishra (supra) had approached this Hon'ble Court by way of writ petitions. The case of Dharnidhar Mishra (supra) was registered as CWJC No. 8408 of 2019, which eventually travelled up to the Hon'ble Supreme Court of India. However, the case of the present petitioners, registered as CWJC No. 8748 of 2019, remained pending before this Court, and the hearing was conducted only in the year 2024.

13. Counsel further submits that as per Clause 4.C.(i) of the Bihar State Litigation Policy, 2011 the State is



required to extend the same treatment in similarly decided matters. Counsel submits that the present writ petition deserves to be disposed of in light of the order passed by the Hon'ble L.P.A. Bench, pursuant to the observations made by the Hon'ble Supreme Court of India in Civil Appeal No. 6351 of 2024.

14. Learned counsel for the State, on the other hand, opposes the contentions raised by the counsel for the petitioners and submits that the factual matrix of the present case and that of Dharnidhar Mishra (supra) are not identical. Counsel submits that the acquisition process in question was dropped in the year 1986 on the ground that the road was not constructed on the acquired land, rather, the acquisition department constructed the road along the old existing road only.

15. It is submitted that despite several requests made by the State to the acquisition department to provide details in this regard and to file a revised acquisition proposal, the acquisition department did not act upon it. Consequently, the said acquisition process lapsed on 23.09.1986. In support of her arguments, learned counsel for the State has placed reliance on Annexures A, B, C, and D, which are order sheets



from the relevant period. These documents reflect that the surveyor and kanoongo had acknowledged the situation, a demand for a revised map had been made, and a fresh acquisition was demanded. However, as the required steps were not taken, the State submits that the acquisition process ultimately lapsed.

16. Counsel further submits that this is a unique situation wherein, according to the records of the Executive Engineer, P.W.D., who is part of the acquisition department, did not send the revised acquisition letter, and as a result, the acquisition process was dropped on 23.09.1986. It is further submitted that from 1986 to 2019, no steps were taken by the father of the petitioners. After his demise in the years 2016, the petitioners approached the District Magistrate for redressal of their grievance. However, the District Magistrate rejected their claim. Thereafter, the petitioners filed CWJC No. 8748 of 2019, which has remained pending since then.

17. Counsel further submits that the circumstances in the present case are quite different. The records annexed as Annexures A, B, C, and D indicate a distinct factual position. Counsel further submits that she is not aware of the case on which the petitioners are placing reliance. However, she



submits that the factual matrix of both cases is different, and as such, no relief should be granted to the petitioners in the present case, and the writ petition is liable to be dismissed.

18. Upon hearing the parties and perusing the documents on record, it transpires to this Court that the land acquisition process, specifically, the notice relating to acquisition, was issued in favour of the petitioners' father. This is evident from Annexure-3, which indicates that Plot Nos. 24 and 25, each measuring 14 decimals (total 28 decimals), were subject to acquisition. The said notice was issued under Section 9 of the Land Acquisition Act, 1894.

19. Section 9 of the old Land Acquisition Act pertains to issuance of notice to persons interested, whereby the Collector is required to give public notice at a convenient place near the land to be acquired and also to serve notice upon the occupier of the said land. Thus, it transpires to this Court that when the said notice was issued in favour of the father of the petitioners under Section 9 of the old act meaning, thereby, father of the petitioners was occupier of the said land. However, it is also clear that the stage for preparation of the award comes later on, meaning that as on the date of issuance of the notice under Section 9, no award had yet been prepared.



20. Further, it transpires to this Court that the order under challenge in the present writ petition is the order dated 08.01.2019, whereby the petitioners' claim was rejected in connection with L.A. Case No. 7 of 1976 on the ground of limitation. This order is on record as Annexure-5 to the writ petition.

21. It is also evident that two writ petitions were filed in respect of the same acquisition case, one by Dharnidhar Mishra & Anr., bearing CWJC No. 8408 of 2019, and the present one by the petitioners, bearing CWJC No. 8748 of 2019. Both cases arise from L.A. Case No. 7 of 1976. The case of Dharnidhar Mishra travelled up to the Hon'ble Supreme Court in Civil Appeal No. 6351 of 2024. While no relief was granted before the Hon'ble Single Judge or the Hon'ble L.P.A. Bench, the Hon'ble Supreme Court categorically held that the question of limitation would not apply where continuity of claim exists.

22. Pursuant to that observation made, the matter was remanded back by the Hon'ble Supreme Court to the Hon'ble L.P.A. Bench, which thereafter decided the matter in the following terms:—

“6. In the above circumstances



and also the fact that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act of 2013') has come into force, we rely on the judgment of the Hon'ble Supreme Court in Indore Development Authority v. Manoharlal and others; (2020) 8 SCC 129. We specifically refer to Paragraph 366.1, which is extracted hereinbelow:-

"366.1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1-1-2014, the date of commencement of the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provisions of the 2013 Act."

7. In the present case, admittedly there is no award made or rather, there is nothing produced on record to indicate an award having been made on the acquisition. In the above circumstances, the matter will have to be considered under Section 24(1)(a) and compensation will have to be determined under the provisions of the Act of 2013.

8. Section 24(1)(a) of the Act of 2013 reads as under:-



"24(1)(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply: or"

9. In the above circumstances, the compensation claim of the appellants will have to be considered under the Act of 2013 subject only to their establishing the title to the said land before the appropriate authority. The District Collector, Samastipur shall initiate proceedings under the Act of 2013 within a period of one month from today, determine the amount of compensation and if the appellants are satisfied, it will be disbursed. Further proceedings, if the appellants are not satisfied with the award, can also be taken under the Act of 2013. We make it clear that we have not observed anything about the title of the appellants which the appellants/legal heirs of the original owner will have to establish before the competent authority.

10. With the above directions, the Letters Patent Appeal stands disposed of."

23. After considering the observations and



reasoning assigned, it transpires to this Court that the question of limitation does not arise in the present matter, particularly in view of the fact that, in relation to L.A. Case No. 7 of 1976, the Hon'ble Supreme Court of India has categorically held in Civil Appeal No. 6351 of 2024 that the order passed by the High Court has been set aside and the matter has been remitted back to the High Court for fresh consideration. Consequently, L.P.A. No. 997 of 2019 was restored to its original file.

24. This Court is also conscious of the legislative framework prevailing in the State of Bihar, specifically the Bihar State Litigation Policy, 2011. Clause 4.C(i) of the said policy provides as follows:—

“4.C(1). A good number of cases are from the category of similar cases. Each Government Department will aim to consider and settle the claim of the representationist/ applicant-employee/ citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level of the Department itself without compelling the litigant to come to the Court. In this manner, the Government Departments would be acting as efficient litigants.”



25. In light of the Bihar State Litigation Policy, 2011, this Court has no option but to direct the respondents to extend equal treatment to the petitioners, as has been observed by the Hon’ble L.P.A. Bench.

26. With these directions, the writ petition is allowed. The petitioners shall be at liberty to approach the concerned authority, i.e., the District Magistrate-cum-Collector, Samastipur, (respondent No. 2) who shall extend the same treatment as observed by the Hon’ble L.P.A. Bench in the matter referred to above.

(Dr. Anshuman, J.)

Aman Kumar/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	11/07/2025
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