

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14802 of 2023

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Md. Mohiuddin Son of Late Md. Hussain, Resident of Village- Bhogkohlia,
P.S.- Farbisganj, Araria, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate Araria.
2. The Land Acquisition Officer, Araria.
3. Raj Kumar Sah, Son of Late Baldeo Sah, Resident of Village- Sonapur,
Ward No. 8, West Dahgaon, P.S.- Sikati, District- Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate Mr. Ravi Kumar, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, SC-19 Mr. Birendra Prasad Singh, AC to SC-19 Mr. Amar Nath Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 21-04-2025

Heard learned Senior Counsel for the petitioner, learned
AC to SC-19 for the State and Mr. Amar Nath Singh, learned counsel
appearing on behalf of the respondent no. 3.

2. The land in dispute pertains to Thana No. 32 (Araria)
Khata No. 169, Khesra No. 33, area 2 acres 22 decimals at Mauza
Barmasia. The land in dispute belonged to the ancestors of
respondent no. 3 (Raj Kumar Sah) who were big Zamindars. The
ancestors of respondent no. 3 had settled the aforesaid land to one
Sheikh Moinuddin. Sheikh Moinuddin applied for its Sikmi right
before the Circle Officer on the ground that he is in continuous
cultivating possession of the land for more than 12 years. The Circle
Officer after hearing the parties allowed Sikmi right in favour of



Moinuddin and rent of three rupees eight annas was fixed by the State Government in respect of the land in dispute. It is further submitted that in the R.S. Khatiyan published in the year 1954, a Sikmi Khata No. 71 in Khata No. 169 was opened in the name of Sheikh Moinuddin with respect to 2 acres 22 decimals of land and a rent of three rupees eight annas was also recorded. After the death of Sheikh Moinuddin, the land in dispute was inherited by his successors who came in possession and started cultivating and in the year 2010 they had filed a petition under Section 48D of the B.T. Act for declaring their raiyati right over the land. Accordingly, Case No. 10/2010-11 was instituted before the Circle Officer, Sikti. The case was allowed and, accordingly, Kaiyami rights purcha dated 30.01.2011 was issued to the successors. The respondent no. 3 herein challenged the order in Case No. 10/2010-11 before the higher authority and the case traveled up to this Court from where the case was remanded by an order dated 14.08.2014 before the Circle Officer, Sikti. The Circle Officer, Sikti after remand by this Court restored the order dated 30.01.2011 by an order dated 15.07.2017/18.07.2017 in Case No. 19/2015-16 (Annexure-1). The respondent no. 3 has challenged the order of the Circle Officer, Sikti in Case No. 19/2015-16 before this Court by filing C.W.J.C. No. 275 of 2018 which is pending adjudication. It is submitted that C.W.J.C. No. 275 of 2018 is listed along with the instant writ application.



3. It is next submitted that the respondent no. 3 herein without availing his alternative remedy has directly approached this Court when an appeal against the order of the Circle Officer, Sikti lies before the SDO.

4. It is submitted that successors of Sheikh Moinuddin in whose favour Kaiyami/Raiyati rights were given sold 2 acres of the disputed land to the petitioner by a registered sale deed dated 29.11.2016. The petitioner thereafter got the purchased land mutated in his name, accordingly, rent receipts and LPC with respect to the land in dispute was issued. It is submitted that the purchased land of the petitioner pertaining to Khata No. 169, Khesra No. 33, area 2 acres was acquired for construction of SSB Camp at Araria. After acquisition of the land, a dispute for compensation arose in between the petitioner and the respondent no. 3 before the Land Acquisition Officer (Respondent No. 2). The respondent no. 2 referred the dispute before the LARRA under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the "Land Acquisition Act, 2013), accordingly, Reference Case No. 39 of 2018 was instituted before the LARRA. The respondent no. 3 appeared and submitted his objection (Annexure-2) before the LARRA that the order by which raiyati right has been confirmed to the vendors of the petitioner by the Circle Officer, Sikti in Case No. 19/2015-16 is



under challenge in C.W.J.C. No. 275 of 2018, as such, reference case should await decision of C.W.J.C. No. 275 of 2018 (Annexure-3). The LARRA by its order dated 04.01.2011 (Annexure-4) rejected the preliminary objection of the respondent no. 3 thereafter the proceeding in Reference Case No. 39/2018 proceeded and petitioner laid his evidence both oral and documentary, thereafter the evidence of respondent no. 3 started and finally the evidence were closed on 19.09.2022. The respondent no. 3 thereafter filed a petition dated 22.09.2022 for recalling the order dated 19.09.2022 but the same was rejected by an order dated 23.09.2022 (Annexure-5), thereafter the case was put for final argument and judgment but, in the meantime, the Presiding Officer retired and the case remained pending.

5. It is next submitted that the New Presiding Officer has joined who instead of proceeding further passed an order dated 28.03.2023 (Annexure-6) which is impugned in the instant writ petition whereby the case was adjourned awaiting order in C.W.J.C. No. 275 of 2018.

6. Learned Senior Counsel appearing on behalf of the petitioner submits that from the facts as recorded hereinabove, it becomes clear that the land in dispute originally belonged to the ancestors of Raj Kumar Sah who is impleaded as respondent no. 3 in the instant writ application. The ancestors of Raj Kumar Sah had settled the land in dispute in favour of Sheikh Moinuddin and Sheikh



Moinuddin being in cultivating possession of the land for more than 12 years applied for Sikmi rights before the Circle Officer, Sikti and the same was allowed and rent of the land in dispute was fixed as recorded hereinabove. It is also submitted that the Khatian which was published in the year 1954 in the said Khatian a Sikmi Khata No. 71 in Khata No. 169 was also opened in the name of Sheikh Moinuddin with respect to 2 acres 22 decimals of land and it was also recorded in the Khatian that rent of three rupees eight annas have been fixed. Further, after the death of Sheikh Moinuddin, his legal heirs came in possession over the land in dispute and they filed an application under Section 48D of the B.T. Act for declaring their raiyati rights over the land in the year 2010 and the same was allowed by an order dated 30.01.2011 passed by the Circle Officer, Sikti in Case No. 10/2010-11. The respondent no. 3 herein for the first time challenged the order passed by the Circle Officer, Sikti in Case No. 10/2010-11 before the superior forum and the matter traveled up to this Court whereafter the matter was remanded before the Circle Officer, Sikti who again declared the Kaiyami rights of the successors of Sheikh Moinuddin over the land in dispute and thereafter the legal heirs of Moinuddin sold the land in favour of the petitioner by a registered sale deed dated 29.11.2016 in pursuance whereof mutation was done, Jamabandi was created and land possession certificate was issued but thereafter the land in dispute



was acquired by the SSB and thereafter a dispute arose in between the petitioner and Raj Kumar Sah for seeking compensation of the land in dispute which stood acquired.

7. In view of the dispute which had arisen in between the petitioner and Raj Kumar Sah, the Land Acquisition Officer referred the matter before the LARRA for getting the issue resolved with regard to compensation.

8. It is submitted by the learned Senior Counsel appearing on behalf of the petitioner that since the land has been acquired, as such, it goes beyond the purview of its owner. The owner may be the petitioner or Raj Kumar Sah but then the entitlement with regard to compensation that who is entitled to receive compensation will be decided by LARRA in terms of Section 64 of the Land Acquisition Act. It is further submitted that what is not in dispute rather stands admitted is that a proceeding before the LARRA commenced and evidences on behalf of the petitioner both oral and documentary was furnished and thereafter the evidence of Raj Kumar Sah started and finally the evidences were closed on 19.09.2022 for which Raj Kumar Sah filed a petition dated 22.09.2022 for recalling the order dated 19.09.2022 but the same was rejected by an order dated 23.09.2022 (Annexure-5 to the writ application). It is submitted that Raj Kumar Sah never challenged the order dated 23.09.2022 by which his application dated 22.09.2022 was rejected for recalling the



order dated 19.09.2022 nor challenged the order dated 04.01.2011 (Annexure-4) passed by the LARRA by which the application of the respondent no. 3 seeking stay of the Reference Case No. 39/2018 on the ground of pendency of C.W.J.C. No. 275 of 2018 was rejected, as such, the respondent no. 3 subjected himself to the jurisdiction of the LARRA but then since the Presiding Officer retired and the new Presiding Officer took charge thereafter an order dated 23.08.2023 (Annexure-6) came to be passed whereby the case was adjourned awaiting order in C.W.J.C. No. 275 of 2018 which is impugned in the instant writ application.

9. Learned counsel appearing in C.W.J.C. No. 275 of 2018 which has been filed on behalf of Raj Kumar Sah and others does not dispute the facts as recorded hereinabove but then submits that whether the petitioner is the owner of the land in dispute or it is Raj Kumar Sah and others who are owner of the land in dispute cannot be adjudicated by the LARRA. It is further submitted that after remand of the case filed by Raj Kumar Sah by this Court, the Circle Officer again declared the Sikmi rights in favour of the legal heirs of Sheikh Moinuddin which is under challenged in C.W.J.C. No. 275 of 2018.

10. It is submitted that until and unless C.W.J.C. No. 275 of 2018 is not adjudicated, the LARRA cannot decide the issue of compensation on which learned Senior Counsel appearing on behalf



of the petitioner submits that the said submission of the learned Senior Counsel appearing on behalf of Raj Kumar Sah in C.W.J.C. No. 275 of 2018 is fit to be rejected solely on the ground that Raj Kumar Sah never challenged the order dated 23.09.2022 (Annexure-5) to the writ application whereby his application dated 22.09.2022 for recalling the order dated 19.09.2022 passed by the Presiding Officer was rejected and the order dated 04.01.2011 passed by the LARRA as recorded hereinabove. It is next submitted that after the land has been acquired, it is LARRA which is the authority competent to adjudicate all issues involved in the case in terms of Section 64 of the Land Acquisition Act, 2013, as such, the earlier Presiding Officer had proceeded with the case rejecting the issues of maintainability raised by Raj Kumar Sah.

11. After hearing the learned counsel for the parties, the Court is in complete agreement with the submissions made by the learned Senior Counsel appearing on behalf of the petitioner that since the land has been acquired, as such, it goes beyond the purview of its owner and any dispute with respect to compensation which obviously shall be decided based on the ownership of the land, the LARRA is the authority competent to adjudicate the same. Further, the respondent no. 3 herein i.e. Raj Kumar Sah never challenged the order dated 23.09.2022 passed by the Presiding Officer LARRA rejecting his application dated 22.09.2022 for recalling the order



dated 19.09.2022 by which evidence was finally closed and the order dated 04.01.2011 (Annexure-4) by which his application seeking stay of the Reference Case No. 39/2018 on the ground of pendency of C.W.J.C. No. 275 of 2018 was rejected, as such, the respondent no. 3 subjected himself to the jurisdiction of the LARRA. The Court is in complete agreement with the submissions made by the learned Senior Counsel for the petitioner that LARRA has jurisdiction and competence to adjudicate the dispute in terms of Section 64 of the Land Acquisition Act, 2013.

12. Having regard to the facts and circumstances of the case, the order dated 23.08.2023 (Annexure-6 to the writ application) passed by the Presiding Officer whereby Reference Case No. 39 of 2018 has been adjourned awaiting order in C.W.J.C. No. 275 of 2018 is concerned is hereby quashed and the LARRA is directed to decide the issue within a period of four months from the date of receipt/production of a copy of this order in accordance with law.

13. It goes without saying that the LARRA will decide the issue after giving proper opportunity of hearing to both the parties.

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	22.04.2025
Transmission Date	

