

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18191 of 2022

=====

Jagdish Sao, Son of Late Harikishun Sao Resident of Village- Giriak, P.O. and
P.S.- Giriak, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms, Old Secretariat, Patna.
3. The Collector, Nalanda, Biharsharif.
4. The District Land Acquisition Officer, Nalanda, Biharsharif.
5. The Presiding Officer, Land Acquisition Rehabilitation and Resettlement Authority, Patna, at Chhajubagh, Patna-800001.
6. Dinesh Prasad, Son of Ram Chandra Sao Resident of Village- Giriak, P.S. and P.O.- Giriak, District- Nalanda.
7. Yugal Kishore Prasad, Son of Jagdish Sao Resident of Village- Giriak, P.S. and P.O.- Giriak, District- Nalanda.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. S. M. Ashraf- Sr. Advocate Mr. Uday Kumar- Advocate Mr. Anjani Kumar- Advocate
For the State	:	Mr. Md. Khurshid Alam (AAG-12) Mr. Asif Kalim-AC to AAG-12
For Private Respondent No.6:	:	Mr. Sudhir Kumar- Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 7 04-02-2025 1. Heard learned senior counsel for the petitioner, learned AC to AAG-12 for the State and the learned counsel appearing on behalf of the private respondent no.6.
2. The learned counsel appearing on behalf of the petitioner submits that in the Year 1972, petitioner had purchased land pertaining to Khata No.54, Survey Plot No.619, area 04 acre 94 decimal, Plot No.720, area 02 decimal and Plot



No.737, area 28 decimals at Mauza- Ghoda Katora, Anchal-Giriak, District- Nalanda through registered sale deed. It is submitted that after purchasing the land, the petitioner got the same mutated in his name and rent receipts were issued and the Circle Officer, Giriak thereafter issued Land Possession Certificate No.370 and 354 dated 16.12.2020 (Annexure-1 series). The learned senior counsel submits that the petitioner thus in terms of Section 3(r) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act (herein after referred to as the 2013 Act) was the land owner of the aforesaid land.

3. It is next submitted that the aforesaid lands along with other lands were acquired in the Year 2020 by the Government of Bihar for Ganga Jal Udwah Yojna and the Collector, Nalanda took possession of the land on 29.09.2020, though lands of the petitioner was acquired in the Year 2020, but no compensation was paid. The petitioner on 08.02.2022 (Annexure-3 series) filed two petitions for seeking compensation for 03 acres 30 decimals and 01 acre 94 decimals of land before the District Land Acquisition Officer, Nalanda. It is submitted that the D.L.A.O., Nalanda in pursuance of application dated 08.02.2022 issued notice dated 19.05.2022



(Annexure-4) to the petitioner, Yugal Kishore Prasad (respondent no.7), Dinesh Prasad (respondent no.6) and Niru Sao fixing 31.05.2022 for hearing the claim for compensation, as the private respondent and others had filed Objection Case No.44 of 2021.

4. It is submitted that the petitioner appeared and filed petition dated 31.05.2022 (Annexure-5) submitting all the relevant documents with regard to the land showing that the land belongs to him. The D.L.A.O., Nalanda after hearing the parties, passed an order dated 08.07.2022 in Objection case No.44 of 2020-21 (Annexure-6) and referred the matter to the Chairman-cum-Presiding Officer, Land Acquisition Rehabilitation and Resettlement Authority (herein after referred to as the Authority) for determination and apportionment of the compensation amount. In the order dated 08.07.2022, it was also recorded that Title Suit No.177 of 2020 and Title Suit No.260 of 2020 were pending adjudication in the Court of the learned Sub-Judge, Biharsharif.

5. The learned senior counsel for the petitioner further submits that it is pertinent to mention here that Title Suit No.177- of 2020 and Title Suit No.260 of 2020 were filed on 05.10.2020 and 27.11.2020 i.e. after the lands were acquired and



possession taken by the Collector on 29.09.2020. It is submitted that since the lands were already acquired before filing of the Title Suit, as such, they went beyond the purview of Civil Court in terms of **Section 63 of the 2013 Act** which incorporates:-

“Section-63- No civil court (other than High Court under article 226 or article 227 of the Constitution or the Supreme Court) shall have jurisdiction to entertain any dispute relating to land acquisition in respect of which the Collector or the Authority is empowered by or under this Act, and no injunction shall be granted by any court in respect of any such matter.”

6. The learned senior counsel next submits that since the lands were already acquired, hence the lands were not available for partition in the family, hence there was no impediment for the authority to decide the compensation based on documents available on record. It is next submitted that the private respondents before the D.L.A.O., Nalanda did not disclose the date of filing of the Title Suit giving an impression that Title Suit were filed prior to acquisition, nor the D.L.A.O. before passing the order dated 08.07.2022 confirmed from the private respondents regarding the date of filing of the Title Suit, hence the D.L.A.O. was misled to refer the matter to the authority on ground that Title Suit was pending adjudication.



7. It is further submitted that total consideration fixed for the acquired land has been assessed at Rs.4,37,11,263/- over which interest as per Section 80 of the 2013 Act is payable. It is submitted that based on the order dated 08.07.2022 passed by the D.L.A.O., Nalanda, Reference Case No.249 of 2022 (N) was instituted before the authority. The petitioner appeared and filed an application dated 19.09.2022 (Annexure-8) before the authority seeking compensation of the land being the land owner, it was also pointed out that non-payment of compensation would carry interest in terms of Section 80 of the 2013 Act. It is next submitted that on 17.10.2022 (Annexure-9), an application was filed in terms of Section 77(2) of the 2013 Act in Reference Case No.249 of 2022 (N) for payment of proportionate compensation by the petitioner. The petitioner in the petition dated 17.10.2022 stated that there are seven members in the family, as such, the compensation be divided into seven shares. Further, out of seven members, four members in the family have sworn an affidavit relinquishing their share in favour of the petitioner, hence the petitioner is entitled for five shares including himself. The petitioner in the petition dated 17.10.2022 also recorded that he is willing to execute a bond undertaking to refund the compensation amount if other



becomes entitled.

8. It is submitted that the authority on petition dated 17.10.2022 (Annexure-9) issued notices to five persons, who had raised objection and the date fixed was 10.11.2022. It is submitted that on 10.11.2022, out of five objectors only two objectors appeared before the authority and filed application that they have no objection if compensation is paid to the petitioner. The objectors, who did not appear, were Dinesh Prasad (plaintiff of T.S. No.177 of 2020), Yugal Kishore (plaintiff of T.S. No.260 of 2020) and Bina Devi daughter of the petitioner. It is submitted that Dinesh Prasad is own nephew of the petitioner and Yugal Kishore is son of the petitioner.

9. The learned senior counsel next submits that respondent nos.3 and 4 have filed their counter-affidavit dated 10.02.2023, wherein they do not dispute the factual aspect of the case but have pleaded that considering the urgency of the project, the land was acquired under Section 40 of the 2013 Act, whereby compensation amount with 75 per cent additional compensation amount of the acquired land had to be paid to the landlords. Accordingly, Panchat was declared on 19.06.2020, but the petitioner did not appear to make claim and objection and after declaration of Panchat on 08.02.2022, the petitioner



appeared before the respondent no.4 to claim compensation and submitted documents, but objection was raised by some persons i.e. the private respondents and others, hence, the claim was referred to the authority considering the pendency of the Title Suit as recorded herein above.

10. The learned senior counsel for the petitioner next submits that the authority despite being aware of the law in garb of pendency of the aforesaid title suit is not adjudicating the claim for compensation of the petitioner and others. It is further submitted that petitioner is already 82 years of age and it is the case of the petitioner that the land in dispute which has been acquired is his purchased land by two sale deeds, but then, his sons and family members are raising objection, on which the petitioner even filed an application under Section 77(2) of the 2013 Act requesting the authority to apportion the compensation amongst the family members, as such, it is submitted that there appears no hurdle before the authority to adjudicate the claim in terms of the application filed by the petitioner on 17.10.2022. The learned senior counsel for the petitioner thus submits that the writ application was necessitated for the reason that the authority despite having jurisdiction to adjudicate the claim in terms of 2013 Act has failed to exercise his jurisdiction and



thus, compelling the petitioner to approach this Court under its extra-ordinary jurisdiction.

11. The learned counsel appearing on behalf of the private respondent no.6 does not dispute the facts as pleaded in the writ application, but then, submits that the property is not self purchased property of the petitioner rather is ancestral property, on which the learned senior counsel submits that the learned counsel appearing on behalf of the respondent no.6 has appeared in the case much before, but then, till date no counter-affidavit has been filed and there is a specific pleading in the writ application that the property in dispute is the purchased property of the petitioner, which is also corroborated by the sale deed.

12. Be that as it may, after hearing the learned counsel for the parties, the issue which arises for consideration is whether the authority in garb of pendency of title suit can withhold the payment of compensation amount to the petitioner or it is the authority which is competent to adjudicate the dispute and thereafter, make payment accordingly. What is not disputed rather stands admitted is that Section 63 of the 2013 Act ousts the jurisdiction of Civil Court with regard to any dispute relating to land acquisition, hence once the land was



acquired, the jurisdiction of Civil Court stands ousted. In the present case, the aforesaid title suit were filed after acquisition of the land, hence the Civil Court cannot adjudicate any dispute between the parties relating to the land in dispute as the lands no more exists for getting any lis adjudicated. Thus, it is for the authority under the Land Acquisition Act i.e. 2013 Act to adjudicate the dispute between the parties and to pay compensation. The petitioner has already filed an application before the authority under Section 77 (2) of the 2013 Act wherein notices were issued by the authority to the five objectors and in pursuance of the notice, two objectors appeared and relinquished their share in favour of the petitioner, which is not rebutted in the counter-affidavit of respondent nos.3 and 4. Further, the petitioner has also offered to give an undertaking in terms of Section 77(2) of the 2013 Act to refund the compensation amount if subsequently others also become entitle for compensation.

13. Taking into consideration the submissions made by the learned senior counsel for the petitioner, learned counsel for the State and the learned counsel for the private respondent, the writ application is disposed of with a direction to the authority to adjudicate Reference Case No.249 of



2022(N) expeditiously within a period of two months from the date of receipt/production of a copy of this order and thereafter, to make payment of the compensation in accordance with law within a further period of one month.

(Satyavrat Verma, J)

vikash/-

U			
---	--	--	--

