

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18318 of 2024

1. Chintu Kumar Son of Late Kameshwar Singh, Resident of Utari Daulatpur, Adaluchak, P.S. and District-Jehanabad.
2. Digambar Singh @ Digmabar Kumar, Son of Late Dinanath Singh, Resident of Utari Daulatpur, Adaluchak, P.S. and District-Jehanabad.
3. Pushpa Devi, Wife of Late Shiv Kumar @ Bigen Singh, Resident of Utari Daulatpur, Adaluchak, P.S. and District-Jehanabad.
4. Kajal Kumari, D/o Shiv Kumar @ Bigan Singh, minor under the guardianship of her mother Mrs. Puspa Devi (Petitioner No. 3), well wishes and next friend. Resident of Utari Daulatpur, Adaluchak, P.S. and District-Jehanabad.
5. Kumkum Kumari, D/o Shiv Kumar @ Bigan Singh, minor under the guardianship of her mother Mrs. Puspa Devi (Petitioner No. 3), well wishes and next friend. Resident of Utari Daulatpur, Adaluchak, P.S. and District-Jehanabad.
6. Krish Kumar, S/o Shiv Kumar @ Bigan Singh, minor under the guardianship of his mother Mrs. Puspa Devi (Petitioner No. 3), well wishes and next friend. Resident of Utari Daulatpur, Adaluchak, P.S. and District-Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Jehanabad (Bihar).
2. District Land Acquisition Officer, Jehanabad (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Akrity Aishwarya, Adv.
For the Respondent/s	:	Mr M.N.H. Khan, SC-1
		Ms. Babita Kumari, AC to SC-1.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 25-02-2025 1. Heard learned counsel for the petitioners and the learned AC to SC-1.
2. The learned counsel for the petitioners submits that the land pertaining to Khata No.286, Plot No.2248, area 1.12 acres, Plot No.2259, area 1.88 acres and Plot No.2260, area 60



decimal at Mauza Babhna, P.S. Jehanabad, District-Jehanabad originally belonged to Guru Narayan Das whose name was recorded in the cadestral survey khatian. The learned counsel for the petitioners submits that Mahant Ramroop Das @ Badkuji for himself and on behalf of his minor brothers, namely, Mohan Das and Banarsi Das, all sons of Late Guru Narayan Das sold the aforesaid piece of land to Jagdeep Singh vide registered sale deed dated 11.07.1949. It is further submitted that petitioner no.1 is grandson of Jagdeep Singh while other petitioners are also grandsons and grand daughters of Jagdeep Singh. It is next submitted that after purchase of the land, Jagdeep Singh acquired right, title, interest over the land and after his demise, his family members including the petitioners acquired the right, title and interest over the land and were paying rent to the State of Bihar with respect to the land as would manifest from rent receipts annexed as Annexure-1.

3. It is further submitted that vide Gazette notification dated 22.09.2011, the land pertaining to plot no. 2260, area 34 decimal and Plot No.2259, area 1.268 decimal were acquired by the government for NH-83 i.e. Patna-Gaya Highway Project. It is next submitted that name of Shankar Das was wrongly mentioned in the column of land holder in the notification dated



22.09.2011, the petitioners on coming to know about the said infirmity raised objection before the D.L.A.O., Jehanabad. The D.L.A.O., Jehanabad accordingly issued letter no.390 dated 30.05.2020 for payment of compensation to the petitioners subject to the report of the C.O., Jehanabad.

4. The learned counsel submits that Shankar Das is son of Banarsi Das and land in dispute was sold by Ram Swaroop Das for himself and on behalf of Banarsi Das and Mohan Das, his minor brothers, in favour of Jagdeep Singh, ancestors of the petitioners vide registered sale deed dated 11.07.1949, as such, Shankar Das was not having any right title over the land in dispute but since the name of Shankar Das appeared in the column of land holder, as such, he started litigating for compensation, accordingly, an opinion of the learned Additional Advocate General, Government of Bihar, Patna was sought and based on the opinion of the learned Additional Advocate General, the compensation amount of Rs.6,50,64,419.43/- was deposited by a cheque with the Drawing and Disbursing Officer, Civil Court, Jehanabad as would manifest from letter no.1180 dated 23.11.2020 (Annexure-2). The learned counsel further submits that since a dispute had arisen with regard to compensation with respect to



the acquisition of the land, as such, the petitioners filed Misc. Case No.12/2021 in the Court of learned District Judge, Jehanabad, in Misc. Case No.12/2021 Shankar Das and others were impleaded as O.Ps and the case was filed under Section 34 of the Arbitration and Conciliation Act, 1996.

5. It is next submitted that the Misc. Case No.12/2021 was decided by the learned District Judge, Jehanabad vide Judgment dated 25.06.2022 (Annexure-3) and it was held that acquired land, area 34 decimal from Plot No.2260 and Plot No.2259, area 1.268 decimal for the purposes of NH-83 is deemed to be in the name of Chintu Kumar and others (petitioners herein), hence are entitled for compensation amount in regard of acquired land and the office was directed to prepare decree, accordingly, the decree was prepared on 08.07.2020 (Annexure-3).

6. The learned counsel further submits that petitioners filed Execution Case No.21/2022 in the Court of learned District Judge, Jehanabad for executing the decree in Misc. Case No.12/2021. It is submitted that while execution case was pending, Shankar Das filed M.A. No.361/2022 before this Court against the judgment and decree in Misc. Case No.12/2021. The learned counsel for the petitioners next submits that the



Execution Case No.21/2022 was pending adjudication and since the execution case remained pending for a long time, as such, the petitioners moved before this Court by filing CWJC No.10128/2023 and the same was disposed of by an order dated 18.04.2024 (Annexure-7) with a direction that the Execution Case No.21 of 2022 be decided within a period of four months from the date of order i.e. 18.04.2024. It is submitted that in pursuance of the order dated 18.04.2024, in CWJC No.10128/2023, the Execution Case No.21 of 2022 was taken up and the learned Court after hearing the parties dismissed the Execution Case No.21 of 2022 by an order dated 13.09.2024 (Annexure-5) on the ground that decree dated 08.07.2022 was a declaratory decree, hence not executable.

7. The learned counsel submits that after the Execution Case No.21 of 2022 was dismissed by the learned District Court, thereafter petitioners filed their representation dated 01.10.2024 (Annexure-6) requesting the D.A.L.O., Jehanabad to release the compensation amount in their favour but the same till date has not been released.

8. The learned counsel appearing on behalf of the State submits that from perusal of the party position of the writ application, it would manifest that Shankar Das has not been



impleaded as a party respondent in the writ application when he is a necessary party, as such, the writ application be dismissed on the sole ground for not impleading the necessary party, as a party respondent in the writ application. The learned State counsel next submits that from perusal of the pleadings made in the writ application, it would manifest that Shankar Das is litigating with regard to acquisition made for NH-83, it is also submitted that he was a party in Misc. Case No.12/2021 filed by the petitioners herein under Section 34 of the Arbitration and Conciliation Act, 1996 and the Miscellaneous case was decided in favour of the petitioners but then Shankar Das has filed Misc. Appeal No.361/2022 which is pending adjudication before this Court. It is submitted that in the event if the writ application is allowed and the authorities are directed to release the compensation in favour of the petitioners and thereafter the Misc. Appeal No.361/2022 filed by Shankar Das is also allowed in that event a dichotomic situation would arise. It is thus submitted that petitioners instead of pursuing the instant remedy ought to have moved before the learned Co-ordinate Bench which is in session of M.A. No.361/2022.

9. After hearing the learned counsel for the parties, the Court is in complete agreement with the submissions made by



the learned counsel appearing on behalf of the State that Shankar Das has filed M.A. No.361/2022 against the Judgment dated 25.06.2022 and decree dated 08.07.2022 in Misc. Case No.12/2021, which is pending adjudication, as such, the Court does not feel persuaded to allow the writ application directing the authorities to release the amount of compensation deposited with the D.D.O., Civil Court, Jehanabad in favour of the petitioners, since M.A. No.361/2022 filed by Shankar Das is pending adjudication before this Court, as such, the Court finds not merit in the writ application.

10. The writ application is accordingly dismissed.

(Satyavrat Verma, J)

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