

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.172 of 2018

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Shivkant Singh S/o Late Balram Singh Resident of Village-Silao,Thana
No.420,Ward No.2 under Silao Nagar Panchayat Silao,PO Silao,P.S.
Silao,Dist.Nalanda

... .. Appellant/s

Versus

1. The State of Bihar through Collector of the District,Nalanda at Bihar Sharif
2. The District Land Acquisition Officer cum Land Acquisition
Collector,Nalanda at Bihar Sharif
3. The Executive Engineer, Public Road Construction Department,Nalanda at
Bihar Sharif

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Aklavya Chandan Kumar, Advocate Mr. Jai Nandan Singh, Advocate
For the State	:	Mr. Anil Kr. Verma, AC to AAG-9

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

7 21-08-2025 This is an appeal under Section 74 of the Right to

Fair Compensation and Transparency in Land Acquisition,
Rehabilitation and Resettlement Act, 2013 (hereinafter described
as “2013 Act”) filed by the appellant (per se interested)
challenging the amount of compensation calculated by the Land
Acquisition Rehabilitation and Resettlement Authority, Patna in
a Reference Case No. 01/2018 (N).

2. It is pertinent to refer, at the outset, that the
Presiding Officer-cum-Chairman, being the competent authority
under 2013 Act, by passing the impugned order, dated 25th
September, 2018 made valuation of the land holding the nature

of the land as “progressive residential” and accordingly compensation was fixed.

3. Being aggrieved by and dissatisfied with the aforesaid order, dated 25th September, 2018, the appellant has preferred the instant appeal.

4. It is pertinent to state that the L.A.R.R. Authority, Patna by his impugned judgment held that the appellant was entitled to get compensation amount @ Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand) per decimal along with other statutory benefits. The respondent, State of Bihar and others were directed to pay the said compensatory amount to the appellant along with interest under Section 72 and 80 of the 2013 Act and additional compensation under Section 40(5) of the said Act.

5. It is contended by the appellant that the acquired land in question was wrongly treated as “progressive residential” land instead of commercial land. It was contended by the appellant that in *Mauza Silao*, there was absolutely no land characterized as “progressive residential” land. The competent authority did not consider the evidence adduced by the witnesses on behalf of the appellant and the deeds in respect of the acquired land by virtue of which the said lands were

transferred as commercial land. Therefore, the competent authority erred in relying on the Report of Six Men Committee to fix the compensation of the acquired land in question.

6. Section 26 of 2013 Act deals with the manner and procedure of determination of market value of land by the Collector. The said provision runs thus: -

“26. (1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:—

(a) the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or

(b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or

(c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects, whichever is higher:

Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.

Explanation 1.—The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of

land is proposed to be made.

Explanation 2.—For determining the average sale price referred to in Explanation 1, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.

(2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.

(3) Where the market value under sub-section (1) or sub-section (2) cannot be determined for the reason that—

(a) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(b) the registered sale deeds or agreements to sell as mentioned in clause (a) of sub-section (1) for similar land are not available for the immediately preceding three years; or

(c) the market value has not been

specified under the Indian Stamp Act, 1899 (2 of 1899) by the appropriate authority, the State Government concerned shall specify the floor price or minimum price per unit area of the said land based on the price calculated in the manner specified in sub-section (1) in respect of similar types of land situated in the immediate adjoining areas: Provided that in a case where the Requiring Body offers its shares to the owners of the lands (whose lands have been acquired) as a part compensation, for acquisition of land, such shares in no case shall exceed twenty-five per cent, of the value so calculated under sub-section (1) or sub-section (2) or sub-section (3) as the case may be: Provided further that the Requiring Body shall in no case compel any owner of the land (whose land has been acquired) to take its shares, the value of which is deductible in the value of the land calculated under sub-section (1): Provided also that the Collector shall, before initiation of any land acquisition proceedings in any area, take all necessary steps to revise and update the market value of the land on the basis of the prevalent market rate in that area: Provided also that the appropriate Government shall ensure that the market value determined for acquisition of any land or property of an educational institution established and administered by a religious or linguistic minority shall be such as would not restrict or abrogate the right to establish and administer educational institutions of their choice.”

7. Thus it was incumbent upon the Collector and subsequently the competent authority also to determine the market value of the notified land on the basis of registered sale-

deeds or agreements to sell, as the case may be, in the area where the land is situated, or the average sale price for similar type of land situated in the nearest village or nearest vicinity area or consented amount of compensation as agreed upon under sub-Section (2) of Section 2 in case of acquisition of lands for private companies or for public private partnership projects.

8. Clause (c) of sub-Section (1) of Section 26 of 2013 Act is not applicable in the instant case, as the land in question was acquired for construction of a road. Explanation 1 of Section 26 further states that the average sale price referred to Clause B of Section 26 (1) shall be determined taking into account, the sale-deeds or the agreements to sell, registered for similar type of area in the near village or near vicinity area during immediate preceding three years of the year in which such acquisition of land is proposed to be made. The appellant produced sale-deeds of 2013 to show the market price of the land in vicinity because the notification was dated 6th December, 2013. The witnesses on behalf of the appellant, who deposed before the competent authority, are the residents of the neighbourhood of the acquired land. The competent authority held in Paragraph 12 of the impugned judgment as hereunder: -

12. "All the eight witnesses examined on behalf of the applicant have proved the case of

the applicant. These witnesses have fully cross-examined by the learned A.G.P., AW-1 has stated in evidence that there is no agricultural land in Silao Nagar Panchayat and all the lands are commercial and residential in nature. Small industries like rice mill, trader's shops are situated near acquired land. AW-2 has also supported these facts and deposed that he also runs two shops in land pertaining to Khata No. 262, Khesra No. 2758 and proved the contents of rent agreement. AW-3 has also proved that Lease Agreement No. 2577/2010 was executed by the appellant in his favour for running a petrol pump but the license could not be issued. AW-4 has also stated in his evidence that his house is adjacent to Plot No. 229 & 184, which is mainly used for residential and commercial purposes. AW-6 corroborated the case of the appellant stating on oath that the plot in question is commercial and residential in nature."

9. This Court fails to understand that as to why the competent authority dismissed the case of the appellant on the basis of the Report of Six Men Committee.

10. It is on record that in order to fix the market value of the acquired land, the competent authority had set up a Six Men Committee. The said Six Men Committee submitted its

report considering existing geographical situation of the land, existing use of the land, already available advantages, live proximity to national highway or road and/or developed area and market value of other lands situated in the same locality/village/area or adjacent or very near to the acquired land.

11. This Court has already referred to the provision contended in Section 26 of 2013 Act. The Clauses (a),(b),(c) of sub-Section (1) of Section 26 do not state the criteria adopted by Six Men Committee in fixing the market value, taking into consideration, the existing geographical situation of the land, existing use of the land and already available advantages etc.

12. The learned Advocate on behalf of the appellant has also drawn my attention to Exhibit-5 Series to show that in *Mauza Silao*, there is no land in the nature of “progressive residential”. The entire *mauza* has two kinds of land, viz., commercial and residential in nature. Therefore, the competent authority erred in relying on the Report of Six Men Committee in fixing the minimum market value of per decimal land in question.

13. The learned Advocate on behalf of the respondents, on the other hand, submits that the Six Men

Committee comprised of the Officers of Revenue Department including the Registrar and Sub-Registrar. They obviously considered the sale deeds and other documents of the locality in arriving at the M.V.R. Therefore, this Court ought not to have raised any doubt with regard to fixation of M.V.R. by the Six Men Committee which was accepted by the competent authority.

14. Having heard the learned Advocates for the parties, this Court fails to comprehend that when the competent authority failed in unequivocal term in Paragraph 11 of the impugned judgment that the appellant was able to prove his case, what was the reason for fixation of M.V.R. on the basis of the Report of Six Men Committee. It is found from the impugned order that the sale deeds and lease agreement filed on behalf of the appellant were not at all considered by the competent authority, though under Section 26 of 2013 Act, it is incumbent upon the competent authority to consider the contemporaneous sale deeds of the locality or near area or the vicinity of the acquired land.

15. This Court finds that the calculation of compensation amount on the basis of M.V.R. of “progressive residential” land by the competent authority was not proper,

legal and valid. The competent authority has failed to take recourse of Section 26 of 2013 Act.

16. For the reasons stated above, the impugned award is set aside and the Land Acquisition Reference Case No. 01 of 2018 is remanded back to the competent authority.

17. The competent authority is directed to pass a fresh judgment, taking into consideration the deeds and documents filed by the appellant, oral evidence of the witnesses adduced on behalf of the appellant as well as the existing rate of the area in vicinity on the basis of the contemporaneous sale deeds, within eight weeks from the date of communication of the order.

18. In order to arrive to such decision, the authority concerned is at liberty to call for some sale-deeds, beside the sale-deeds filed by the appellant from the Registration Office, executed during the relevant time of notification.

19. The instant appeal is, accordingly, allowed on contest.

20. There shall, however, no order as to cost.

(Bibek Chaudhuri, J.)

Jyoti Kumari/-

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