

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8137 of 2021

- 1.1. Sushila Devi W/o Late Moulu Paswan (Karta of family) Resident of Village- Ward No. 17, Dakshin Maheshwari, near ICP Gate, P.S.- Jogbani, District- Araria.
- 1.2. Shyam Lal Paswan Son of Late Moulu Paswan, Resident of Village- Ward No. 17, Dakshin Maheshwari, near ICP Gate, P.S.- Jogbani, District- Araria.
- 1.3. Jitendra Paswan Son of Late Moulu Paswan, Resident of Village- Ward No. 17, Dakshin Maheshwari, near ICP Gate, P.S.- Jogbani, District- Araria.
- 1.4. Mukesh Paswan Son of late Moulu Paswan, Resident of Village- Ward No. 17, Dakshin Maheshwari, near ICP Gate, P.S.- Jogbani, District- Araria.
- 1.5. Sita Devi D/o Late Moulu Paswan, W/o Tara Chand Paswan, R/o Indra Nagar Tikuliya Ward No. 9 Jogavani, Utri Maheshwari, P.S. Jogbani, District - Araria - 854328.
- 1.6. Saloni Devi D/o Late Moulu Paswan, W/o Ashok Kumar, Resident of Ward No. 2, Bangawara, District - Araria- 854312.
- 1.7. Soni Devi D/o late Moulu Paswan, W/o Vijay Kumar, R/o Lagan Tola, Kadpura, Kadpura Dalan Katihar, District- Katihar - 854106.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar,.
2. The Collector, Araria, Government of Bihar.
3. The District Land Acquisition Officer, Araria.
4. The Circle Officer, Forbisganj, District- Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kundan Kumar Singh, Advocate
For the Respondent/s	:	Mr. Arif Daula Sidique, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 05-01-2026 Heard learned counsel appearing on behalf of the
petitioners and learned counsel for the respondent/s.

2. The petitioners in paragraph no. 1 of the present writ petition have sought inter alia following relief(s), which is reproduced hereinafter:



"1. That this writ application is being filed for the issuance of Writ of MANDAMUS commanding the respondent authorities to take appropriate and justifiable decision in respect to the claim of the petitioner regarding payment of compensation to him on account of acquisition of his land-cum-residential house vide first stage notification PR-08816 (Revenue) 2020-21 published in daily news paper Dainik Jagaran, Bhagalpur Edition dated 03.12.2020 wherein land of petitioner has been categorized as agricultural as figured at serial number 1 of the notification, although said land of the petitioner is the only land on which his residence and shop situates.

AND, the issuance of Writ of MANDAMUS commanding the respondent authorities to take appropriate and justifiable decision in respect to the objection/representation of petitioner for payment of compensation on commercial basis as the acquired land comprises the house and shop of petitioner; which is the only house and source of his livelihood and on account of acquisition of the same the petitioner is on verge of becoming homeless.

And, for issuance of appropriate Order or Orders, Direction or Directions for which the petitioners may be found entitled to."

3. Brief facts of the case is that the petitioner is the owner and occupier of land appertaining to Plot No. 1291 under Khata No. 09, Mauza Dakshin Maheswari, Thana No. 175, measuring 0.22 acre (22 decimals), situated at NH-57A, corresponding to Municipal Holding No. 278, Ward No. 17, Jogbani, District Araria, upon which his residential house and a shop stand, constituting his sole means of livelihood; the said ownership and possession are supported by land rent and municipal tax receipts. The petitioner is a person with 75% permanent disability. On 28.11.2020, the petitioner was served with a notice dated 28.11.2020 under Section 21(2) of the Land



Acquisition Act, inviting objections in respect of the proposed acquisition of the said land for construction of the Land Port Authority of India, ICP, Jogbani. Subsequently, a notification under Section 11(1) read with the emergency provision under Section 40 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, bearing Notification No. PR-08816 (Revenue) 2020-21, was issued and published on 03.12.2020, wherein the petitioner's land was shown at Serial No. 1 and wrongly categorized as agricultural land, despite the existence of his residential house and shop thereon. The petitioner alleges that no spot enquiry or physical verification was conducted, as is evident from the erroneous categorization of another plot as residential, which in fact is a water-filled pond. Aggrieved thereby, the petitioner submitted objections/representations dated 05.12.2020 and 09.12.2020 before the Collector, Araria and the District Land Acquisition Officer, Araria, along with photographs of his house and shop; however, no action has been taken till date, nor has any spot inspection been conducted, giving rise to the present writ petition.

4. It is the case of the petitioners that pursuant to the gazette notification dated 03.12.2020 issued under Section 30 of



the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013 (hereinafter referred to as the "Act, 2013"), the land of the petitioners has been categorized as agricultural land though it is residential land. The petitioners have filed a detailed application before the District Collector, Araria on 05.12.2020 for determination of award in accordance with the parameter as has been enshrined under Sections 27 and 28 of the Act, 2013, but the said application is pending till date.

5. Law with regard to the process of fixation of compensation is well settled by the Apex Court in case of ***M.P. Road Development Corpn. v. Vincent Daniel***, reported in, ***(2025) 7 SCC 798***, wherein in paragraph nos. 34, 42 and 43, the court has held as under: -

34. Section 28 sets out the parameters to be considered by the Collector in determining the award. It refers to seven factors for computing the amount payable as compensation. The very first factor is the market value as determined under Section 26, and the award amount computed in accordance with the First and the Second Schedules to the Acquisition Act, 2013. Other clauses cover damage sustained due to factors such as loss of standing crops or trees, severance of land, adverse effects on other property, loss of income, and costs or losses from change in residence or place of business. Losses, if any, bona fide resulting from the diminution of the profits are also to be accounted for. The seventh ground is particularly important. It states that the Collector can take into consideration any other ground which may be in the interest of equity, justice and beneficial to the affected families. This clause will not apply to reduce the market



value of land determined under Section 26, but the Collector can apply it to enhance the market value in the interest of equity and justice if it is beneficial to the affected families.

42. We now proceed to apply the above analysis to the facts of the present case, which is an acquisition under the Acquisition Act, 2013. To determine the compensation, the market value of the land must first be computed under Section 26 of the Acquisition Act, 2013. This requires the application of clauses (a), (b), and (c) of Section 26(1). Clause (b) would have no application in the present case as there are no exemplars in the vicinity to draw a comparison and arrive at the average sale price in terms of Explanations 1 and 2 to Section 26(1). Further, as this acquisition does not involve private companies or public-private partnerships, clause (c) would also not apply. Therefore, the highest value would be the one determined under clause (a) i.e. the market value specified under the Stamp Act. In the present case, this value would be the circle rate fixed for the year 2014-2015 under the Collector's Guidelines framed under the Stamp Act. The Commissioner has applied the Collector's Guidelines by using the rate provided for non-converted agricultural land. The Commissioner has further supplemented this amount by accounting for the assets attached to the land and adding the solatium payable.

43. In view of the above stated reasons, we hold that the compensation has been calculated in accordance with the mandate of the Acquisition Act, 2013. Thus, no reduction in the amount can be granted by applying the theory of deduction. It has been left to the Collector's discretion to make adjustments to the market value determined through Section 26(1), if deemed necessary in the opinion of the Collector. In the facts of the present case, there was no such formation of opinion by the competent authority or the Commissioner.

6. In absence of any information, as to whether, already an award under Section 30 of the Act, 2013 has been prepared, this Court has not gone into the merits of the right of



the petitioners after having evaluated the decision of the Collector.

7. The District Collector, Araria, is directed to consider, as to whether, he has taken action in accordance with the market value of the land in question and if he has not already decided the award of solatium, then in that case, he must give due regard to the manner prescribed under Section 28 of the Act, 2013 to determine the fair compensation in respect of the property of the petitioners and dispose of the application filed on behalf of the petitioners well within a period of six weeks from the date of communication of this order in accordance with law.

8. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

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