

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9500 of 2017

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Dhirendra Kumar Kanth S/o late Laxmi Narayan Kanth P.O. Pirnagar,
Village- Pirnagar, P.S. Gwalapara, District- Madhepura.

... ... Petitioner/s

Versus

1. The Union Of India
2. The Commandant, Seema Suraksha Bal SSB, 18th Batallian at Supaul in the District of Supaul.
3. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
4. The Principal Secretary, Department of land and Reforms, Government of Bihar, Patna.
5. The Under Secretary, Department of Land and Reforms, Government of Bihar, Patna
6. The Accountant GeneralAandE, Bihar at Birchand Patel Path, Patna.
7. The District Magistrate, Supaul.
8. The District Land Acquisition Officer, Supaul in the district Supaul.
9. Dy. Collector, Land Reforms, Birpur.
10. The Sub Divisional Officer, Birpur.
11. The Circle Officer, Basantpur, Supaul.

... ... Respondent/s

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Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013—land of petitioner was acquired by State and handed over to Seema Surksha Bal, for which Seema Surksha Bal paid the entire payment to State Government—petitioner being karta of the family filed an application before Collector for payment of compensation for their land acquired by State—an application was forwarded to Revenue Officials for issuing Raiyat Certificate after making proper enquiry on the claim of the petitioner—on enquiry, land of the petitioner was recorded in the name of Anabad Bihar Sarkar, i.e., Government of Bihar Land—before acquisition, the land was in possession of Raiyats—Circle Officer confirmed the Raiyat Right of the petitioner and their brothers—Title Appeal was filed by State after when the petitioner filed an application for payment of the compensation—Title Appeal was dismissed for non-submission of required requisites on part of State—Restoration was filed but it is pending—writ petition disposed off with directions.

(Paras 13, 14, 26, 27, 31, 33 and 37)

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9. Dy. Collector, Land Reforms, Birpur.
10. The Sub Divisional Officer, Birpur.
11. The Circle Officer, Basantpur, Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Girijish Kumar, Advocate
For the Respondent/s : Mr. Sajid Salim Khan, S.C.-25
For the U.O.I. : Mr. Anshay Bahadur Mathur (C.G.C.)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 29-04-2024

Heard Mr. Girijish Kumar, learned Counsel for the
petitioner, Mr. Sajid Salim Khan, learned S.C.-25 as also Mr.
Anshay Bahadur Mathur, learned Counsel for the Union of
India.

2. The present petition has been preferred for the
following reliefs:-

*(i) for directing the respondent's authority for
making payment with interest and adequate
compensation to the petitioner from date of
acquisition of their land being Khata no. 657,*



Khesra No. 1639, 1640 and 1641 measuring 196 decimals equivalent to 1 Bigha and 4 kattah situated at Mauza-Birpur, Thana No.5, Anchal-Basantpur, District-Supaul regarding which possession has been taken by the Seema Suraksha Bal 18 Battalion (SSB) on 05.11.2009, or else quash the entire land acquisition proceeding and restore the possession of the land in favour of petitioner;

(ii) for further direction for payment of the price of the trees standing on the land in question with interest thereon till the date of actual payment;

(iii) to pass such other order/orders as Lordship deem fit and proper in the facts and circumstances of the case.

3. Though, number of orders have been passed in the case, the relief for which the petitioner invoked the writ jurisdiction still eluded him even after the lapse of seven years. Its high time that the same is now taken to its logical conclusion.

4. The case of the petitioner is/are as follows:-



5. The land initially came into possession of the ancestors of the petitioners from ex-landlord through settlement on grant of receipt vesting on the estate. Jamabandi was created in the name of Late Laxmi Narayan Kanth, the father of the petitioner and rent was accepted by the Government with grant of receipt since 1964 to 2017.

6. Late Laxmi Narayan Kanth died whereafter his heirs came to know about the wrong entry made sometime in 1977-78 in the Khatiyani as the 'Anabad Bihar Sarkar'.

7. In the year 1980, under section 106 of the B.T Act, Title Suit no. 541 of 1980 was preferred by them and on 26.12.1995, an order/direction came to be passed by the Revenue Officer, Birpur after examining all the documents, witnesses including the settlement receipt issued by the former land lord Mr.Bhagawat Prasad Singh in favour of ancestors of the petitioner.

8. The concerned Officer found rent receipts provided by the petitioner and held the survey entry in the name of 'Anabad Bihar Sarkar' as incorrect and further directed to record the name in respect of Khata no.657, Khesra No. 1639,1640 and 1641 measuring (196 decimal equivalent to I Bigha and 4 kathas) situated at Mauza Birpur, Thana No.5,



Anchal Basantpur, District-Supaul in the name of petitioner and all other heir of the original allottee and

9. Accordingly, ex-parte order passed was in favour of petitioners of the said case. The judgment was followed by the decree dated 30.12.1995 which was never challenged before any authority/Court and as such it attained finality.

10. Late Laxmi Narayan Kanth died leaving behind four sons namely Jyotendra Naryan Kanth, Gajendra Narayan Kanth, Rajendra Kumar Kanth and Dhirendra Kumar Kanth (the petitioner herein). Gajendra Narayan Kanth died leaving behind his wife, Manjula Devi and three sons namely, Neeraj Kumar Verma, Vivek Kumar Verma and Manoj Kumar, the petitioner being the '*karta*' of the family.

11. On an application filed by the State before the Court of Sub Divisional Officer, Birpur for cancelling the '*Jamabandi*' created in favour of petitioner and his brother, the Court passed the order dated 16.08.1991 in favour of the petitioner after recording that the land was settled in the name of the petitioner by the former landlord after abolition of the Zamindari and receipt too were submitted by the petitioner and his brother up till 1973-75 to the State Government.

12. The said Court further held that in the new



survey, the said land recorded about the Title Suit no. 541 of 1980 filed by the heir of late Laxmi Narayan Kanth which is still pending. It thus observed that till disposal of the said Title Suit, it is not proper to cancel the Jamabandi recorded in the name of petitioner and his brother.

13. Later, the petitioner came to know that the land in question were going to be acquired for establishment of Battallion Headquater of Seema Surksha Bal (for short 'the SSB') at Birpur. As the petitioner and his brother were never served with any notice, they remained unaware of the said development. Later, upon the knowledge, they filed an application before the Collector in the year 2012 for payment of compensation for the said land which was acquired and handed over to 'the SSB'.

14. The application of the petitioner was forwarded on 15.03.2012 by the Collector, Supaul to the Revenue officials to make an enquiry on the claim. He further directed that if the claim of the petitioner is/was found to be true, to issue the '*raiya*t' certificate.

15. The Circle Officer, Basantpur after detailed enquiry conducted through the Revenue Officer and Incharge, Circle Inspector submitted the report dated 12.07.2013 to the



DCLR, Birpur stating therein that in the recent survey, the land was recorded in the name of 'Anabad Bihar Sarkar'. However, before the acquisition, the land was in the possession of raiyats. He further clarified that the settlement was uninterruptedly recorded in the name of raiyat earlier. Circle Officer in its report dated 12.07.2013 confirmed the raiyat right of the petitioner and his brother on the said land which came to be in possession of the 18th Battalion of 'the SSB'.

16. The submission is that the part value of the said acquired land including the land acquired by the petitioner was deposited by 'the SSB' vide letter dated 27.06.2011 before the District Magistrate Office, Supaul and also discussed regarding the said issue allocation of fund for acquiring the land in Birpur in letter dated 12.07.2010 issued by the District Land Acquisition Officer, Birpur addressed to the SSB 18th Battalion.

17. Further submission is that when similarly situate persons moved this Court in C.W.J.C. No. 17738 of 2011 (Rajesh Gupta and Ors. vs State of Bihar & Ors.), payments were made.

18. The District Magistrate, Supaul vide letter dated 20.08.2016 demanded from SSB cost of 1.23 Acres of Private land of Rs. 2,00,29,145/- for making payment to the Land



Owners in which the reference was made for payment of the said writ petition bearing CWJC No.17738 of 2011 and the same was forwarded to the Headquarter by 'the SSB' Patna vide letter dated 02.09.2016. Accordingly, payment was released in favour of the parties to the said writ application.

19. Learned Counsel for the petitioner submits that despite the order/decreed in his favour (Annexure-2 and 3 to the writ petition) and the land recorded in their names on 06.08.2016 (Annexure-13) as also the acquisition of land long ago, the payment part is still eluding them.

20. He submits that a bare perusal of the present Title Appeal no./date preferred would show that only after the writ petition was file, the State came out of deep slumber and chose to challenge the order which was incorporated in the counter affidavit.

21. It is his further submission that subsequently, the same also got dismissed for non-prosecution and now in the garb of filing of restoration petition, the delay.

22. A counter affidavit/supplementary counter affidavit on behalf of the District Magistrate, Supaul filed and this Court would like to put on record paragraphs 5 to 7 which read as follows:-



“5. That, in the course of meeting, it has decided unanimously that requisition in respect to land in question ought to be submitted by the Commandant, S.S.B. 18th/45th Battalion, Birpur before the Land Acquisition Officer, Suapul and after that, the Land Acquisition Officer, Supaul shall take all necessary steps in accordance with provisions of RFCTLARR Act, 2013 towards the payment as compensation to petitioner.

6. That, it has further directed to the Circle Officer, Basantpur to set aside the proposal submitted earlier in respect to said land considering therein said land as Government's Land.

7. That, further vide letter No.-1908 dated-18/11/2022 a letter also sent to the Commandant S.S.B. 18th/45th Battalion, Birpur, requesting therein to sent a fresh requisition for the land situated at mauja Birpur, Thana No.-5, Anchal-Basantpur bearing khata No.-657 khesra No.-1639 area-0.83 acre khesra No. 1640 area-0.63 acre and khesra No.-1641 area- 0.50 acre i.e. total measuring area-1.96 acre, by which payment of compensation be ensure to petitioner in compliance of order dated-18/10/2022 passed by the Hon'ble Court.”

23. Further, the memo no. 09 dated 08.11.2022



(Annexure-R/3 to the counter affidavit) it has been submitted that in the meeting headed by the Collector, Supaul which also included the Additional Collector, Supaul, the District Land Acquisition Officer, Supaul, the Commandant S.S.B., 45th Battalion, Birpur and the Circle Officer, Basantpur, similar situate matter relating to Rajesh Kumar Gupta vs. The State (C.W.J.C. No. 17738 of 2011), payment has been made. The relevant portion is/are incorporated hereinbelow:-

“उक्त अर्जित भूमि के संदर्भ में समीक्षोपरान्त यह ज्ञात हुआ कि उक्त भूमि केडस्ट्रल सर्वे (CS) खतियान में रैयति भूमि थी जो रिविजनल सर्वे (RS) में अनाबाद बिहार सरकार के नाम से दर्ज हुआ। जिसके विरुद्ध रैयतों के द्वारा BT Act. की धारा 106 के तहत संशोधन हेतु सक्षम पदाधिकारी के समक्ष वाद दायर की गई। सक्षम पदाधिकारी (सहायक बन्दोवस्त पदाधिकारी) के द्वारा उपरोक्त अनाबाद बिहार सरकार के नाम दर्ज भूमि को रैयती भूमि घोषित किया गया।

जिला भू-अर्जन पदाधिकारी के द्वारा बताया गया कि इसी तरह के मामले में राजेश कुमार गुप्ता के द्वारा माननीय उच्च न्यायालय, पटना में CWJC No.-17738/2011 के द्वारा दायर हुई थी। उक्त वाद के न्याय निर्णय के आलोक में समादेष्टा, एस0एस0बी0, 45वी वाहिनी वीरपुर के द्वारा 1.23 एकड़ भूमि का अधियाचना समर्पित की गई तदनुसार विधिवत भू-अर्जन की कार्यवाई प्रारंभ करते हुए मुआवजा भुगतान की गई है।

अतः उपरोक्त तथ्यों के आलोक में बैठक में उपस्थित पदाधिकारियों के साथ विमर्शोपरान्त सर्वसम्मति से यह निर्णय लिया गया कि माननीय उच्च न्यायालय के द्वारा दिनांक-18.10.2022 को पारित न्यायआदेश के



अनुपालन हेतु RFCTLARR-2013 में वर्णित प्रावधानों के तहत श्री धीरेन्द्र कुमार कंठ को मुआवजा देने हेतु अधियाची विभाग (समादेष्टा, एस0एस0बी0, 45वीं वाहिनी वीरपुर) उपरोक्त वर्णित भूमि का अधियाचना एक सप्ताह के अंदर समर्पित करेंगे। साथ ही अंचलाधिकारी बसंतपुर उक्त अधियाचित भूमि जो अनावद बिहार सरकार की भूमि मानते हुए पूर्व में हस्तांतरित की गयी थी उक्त भूमि के संबंध में विभाग से हस्तांतरण प्रस्ताव को निरस्त करने के साथ सलामी एवं पूँजीकृत भूमि मूल्य वापस करने हेतु विधिवत अनुमंडल पदाधिकारी विरपुर के माध्यम से प्रस्ताव दो दिनों के अन्दर उपलब्ध कराएँगे।

जिला भू-अर्जन पदाधिकारी, सुपौल अधियाची विभाग से प्राप्त अधियाचना के आलोक में RFCTLARR-2013 के तहत सभी प्रक्रिया पूर्ण करते हुए मुआवजा भुगतान हेतु अग्रेतर कार्रवाई करेंगे। अंचलाधिकारी बसंतपुर उक्त भूमि के संदर्भ में विस्तृत प्रतिवेदन जिला भू-अर्जन पदाधिकारी को भेजना सुनिश्चित करेंगे।

सधन्यवाद बैठक की कार्यवाही समाप्त की गई।

24. Subsequently, the supplementary counter affidavit on behalf of the Collector, Supaul was filed and its was informed that since Title Appeal No. 06 of 2017 has been filed and as it was a Government land, they did not made any requisition with 'the S.S.B.' with respect to the land in question till the outcome of the petition.

25. However, in paragraph-6, it has been accepted that the same was dismissed by the Court of learned Sub-Judge Ist, Supaul for non-submission of requisites on the part of the



concerned G.P/A.G.P. and Miscellaneous Application for restoration of the Title Appeal No. 12/2023 has been filed which is pending before the learned Sub Judge-1st, Supaul.

26. In that background, the Court had directed the Collector, Supaul on 01.04.2024 to file fresh affidavit.

27. Pursuant thereto, another affidavit has come duly signed by the Collector, Supaul himself wherein in paragraph-4, it has been stated that the Settlement Officer, Birpur passed an erroneous order declaring the title of the petitioner over the land ignoring the fact that it is a 'gair mazarua' land. Further, the State has already preferred Title Appeal No. 06 of 2017 which unfortunately got dismissed and Miscellaneous Application No. 12 of 2023 is pending for which the next date of hearing was 30.04.2024.

28. Another counter affidavit of the respondent nos. 1 and 2 i.e. the Commandant, S.S.B., Supaul duly put on affidavit by the Commandant, 65th Battalion, S.S.B., Bettiah having statutory power of Commandant, 45th Battalion, S.S.B., Birpur is on record and according to paragraphs 4 to 6, it has been claimed that they made payments to the State Government (District Magistrate, Supaul) for the entire 54.37 acres of land firstly in the year 2006 and later in the year 2011.



Further, in paragraph-5, it has been categorically stated that the disputed 1.96 acres of land is part of the 54.37 acres of land for which payments have been made.

29. This Court would like to incorporate paragraph nos. 4 to 6 of the reply of 'the SSB' for the proper appreciation which read as follows:-

"4. That short facts about this case is that the respondent no-2 (SSB) has made a requisition before the District Magistrate, Supaul in the year 2004 for acquisition of 75.13 acres of land for establishment of Battalion Head Quarter of Sashastra Seema Bal (for short SSB). The respondent no-7 toll has conducted survey of the entire area and raised an initial demand for Rs.6,00,16,030/- for the entire 75.13 acres of land before the respondent no-2 with the following details:

(i) Govt. land (Irrigation Dept): 34.68 Acre @ 50,000/- katha - 2,08,08,000/-

(ii) Govt. of Bihar (Rev. Dept): 12.02 Acre @ 50,000/- katha 72,12,000/-

(iii) Pvt. Land (Birpur Mauza): 16.94 Acre @ 50,000/- katha 1,01,64,000/-

(iv) Pvt. Land (Basantpur M): 11.32 Acre @ 50,000/- katha 20,37,600/-

(v) Govt. Land (Minor Irre); 0.17 Acre @ 50,000/- katha = Total 30,600/-

Total Rs. 4,02,52,200/-

Solatium @ 30% Additional Rs. 1,20,75,660/-

Addl. 12% towards Interest



from the date of Acquisition Rs. 48,30,264/-

.....

Total Rs. 5,71,58,124/-

Add:-5% towards establishment charges Rs.28,57,906/-

Total Rs. 6,00,16,031/-

It is further submitted that initially the respondent no-7 has described the present land in dispute measuring 1.96 acres as part of 12.02 acres as Govt. of Bihar land (Anabad Bihar Sarkar).

Accordingly, in terms of the demand raised by the State of Bihar, the respondent no-2 has paid the entire amount of Rs. 600,16,030/- by a demand draft dt- 29-03-2006 vide letter dated 05.04.2006 to the District Magistrate, Supaul for acquisition of land.

5. That it is further stated that by letter dated 05-11-2009 the Govt. of Bihar has decided to transfer 54.37 acres of Govt. Land to the Respondent no-2.

It is to be mentioned here that here the disputed 1.96 acres of land as claimed by the petitioner as their raiyati land is a part of the 54.37 acres of land (For Bn Hqr 46.87 acres and remaining 7.5 acres for BOPs) because the State of Bihar was claiming the said land as Govt. Land.

6. That thereafter the respondent no-7 (DM,Supaul) has further raised the final demand of



Rs. 6,32,94,892/- for the entire 54.37 acres of land (For Bn Hqr 46.87 acres and remaining 7.5 acres for BOPs) by their letter dt-5-01- 2010 and 17-06-2010.

The respondent no-2 has made payment of the entire amount of compensation by letter dt-27-06-2011 amounting to Rs. 6,32,94,892/- by Demand Draft dated 16-06-2011 issued in favour of the DLAO, Supaul.”

30. From the aforesaid statements of ‘the S.S.B.’ un rebutted by the State, it is clear that the payment for the said disputed land has come to the coffers of the State of Bihar through the District Magistrate, Supaul. This payment was made as ‘the S.S.B.’ was informed by the State through the Collector, Supaul that the land which is being handed over belongs to the State Government.

31. Orders are in favour of the petitioner, land has been acquired, compensation received by the State Government from ‘the S.S.B.’ in the year 2011 itself. Title Appeal preferred belatedly in the year 2017 got dismissed for want of requisites that was/were not filed by the learned G.P. whereafter the Miscellaneous Application has been preferred for restoration of the said application.

32. This in the considered opinion of the Court, the



State is only buying time and is not at all serious in either taking the Title Appeal to its logical conclusion or making payment to the petitioner which has already been received by it firstly in the year 2006 and later in the year 2011 from 'the S.S.B.'.

33. In that background, this Court has no option but to direct the respondent no 7, the District Magistrate cum Collector, Supaul to:-

(i) take the Miscellaneous Application No. 12 of 2023/Title Appeal No. 06 of 2017 to its logical conclusion in the next six months;

(ii) in case the State fails to take the same to its logical conclusion within six months, to pay the compensation amount to the petitioner for the land in question in the next three months;

(iii) this will be subject to the final outcome of the Title Appeal No. 06 of 2017.

34. Having passed the order, this Court further observes that the petitioner being an individual fighting against the might of the State, it is a fit case where he is granted some cost for the agony he has suffered which this Court determines to be Rs. 10,000/-. This cost shall be paid alongwith the



compensation amount when the State fails to take the Title Appeal No. 06 of 2017 to its logical conclusion within the next six months.

35. Since the Collector, Supaul has been directed to take the matter to its logical conclusion, it is duty of the concerned Court where the Miscellaneous Application No. 12 of 2023/Title Appeal No. 06 of 2017 is pending, to expedite the matter and see to it that the same comes to an end without unnecessary adjournment.

36. This Court further clarifies that it is completely the discretion of the concerned Court as to whether the Miscellaneous Application preferred for restoration of Title Appeal No. 06 of 2017 is to be allowed or not and this Court has not made any observation on the subject matter.

37. The writ petition stands disposed of.

(Rajiv Roy, J)

Neha/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	06.05.2024
Transmission Date	

