

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.102 of 1989

The State of Bihar

... .. Appellant/s

Versus

1. Parmanand Rai Son of Sohli Rai, Resident of Village Garah Chak, P.S. Fatwa, District- Patna.
- 2.1. Shanti Devi W/o Late Lala Rai, Resident of Village- Gardhochak, P.S. - Fatuha, at present P.S.- Nadi, District- Patna.
- 2.2. Munna Kumar, S/O late Lala Rai, Resident of Village- Gardhochak, P.S. - Fatuha, at present P.S.- Nadi, District- Patna.
- 2.3. Kamlesh Kumar, S/O late Lala Rai, Resident of Village- Gardhochak, P.S. - Fatuha, at present P.S.- Nadi, District- Patna.
- 2.4. Rina Kumari, D/O Late Lala Rai and W/O Pramod Kumar, Resident of Village- Gardhochak, P.S. - Fatuha, at present P.S.- Nadi, District- Patna.
- 2.5. Archana Kumari, D/O Late Lala Rai and W/O Sanjeev Kumar, Resident of Mohalla- Gurhatta, P.S.- Khajekala, Patna City, District- Patna, Pin Code 800008.
- 3.1. Ramiya Devi, W/O of Late Sepahi Roy, Resident of Village- Gardhochak, P.S.- Fatuha, at present P.S.- Nadi, District- Patna.
- 3.2. Pappu Kumar Rai, S/O Late Sepahi Roy, Resident of Village- Gardhochak, P.S.- Fatuha, at present P.S.- Nadi, District- Patna.
- 3.3. Sanjay Kumar, S/O Late Sepahi Roy, Resident of Village- Gardhochak, P.S.- Fatuha, at present P.S.- Nadi, District- Patna.
- 3.4. Raj Kumar Rai, S/O Late Sepahi Roy, Resident of Village- Gardhochak, P.S.- Fatuha, at present P.S.- Nadi, District- Patna.
- 3.5. Rahul Kumar, S/O Late Sepahi Roy, Resident of Village- Gardhochak, P.S.- Fatuha, at present P.S.- Nadi, District- Patna.
4. Mani Ray, Son of Sohli Rai, Resident of Village Garah Chak, P.S. Fatwa, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Uday Shankar Sharan Singh, G.P.19
Mr. S. K.Singh, AC to G.P. 19
For the Respondent/s : Ms. Sheela Sharma

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

CAV JUDGMENT

Date : 20-06-2024

I have already heard the learned counsel for the cross-objectors and also the learned counsel for the State of Bihar.

2. The appellant, State of Bihar, preferred this



appeal being aggrieved and dissatisfied with the judgment and order dated 31.08.1988, passed by the Special Land Acquisition Judge-III, Patna in L.A. Case No. 7 of 1985, whereby the learned court below enhanced the compensation of the land acquired, after the case was referred by the Collector under Section 18 of the Land Acquisition Act, 1894, hereinafter to be referred to as 'the Act'.

3. The State of Bihar withdrew this appeal as the valuation of the first appeal is less than Rs.3,00,000/- (Rupees three lacs). The permission of withdrawal was accorded by this Court, vide order dated 13.02.2015 and this appeal was dismissed as withdrawn, but as the respondents had already filed cross-objection and it was admitted, the cross-objection was registered for hearing at the prayer of both the parties.

4. The brief fact of the case is that the raiyati land of a number of *raiya*s of village Garhochak & Samaspur, P.S. Fatwah, District Patna, were acquired vide notification dated 16.08.1980 under Section 4(1) of the Act. Further, a notification of declaration as per Section 6 of the Act was issued on 16.07.1982 on determining the compensation of the land at the rate of Rs. 26,666/- per acre for Grade-1 land and Rs. 15,484/- for Grade-2 land. The awardees were not satisfied with the



awarded amount of compensation and they made objection before the Collector. The Collector referred the matter for adjudication of adequate compensation to the court below under Section 18 of the Act. The claim of the awardees was that the immediate market value of the land, at the time of acquisition, was Rs. 20,000/- per katha as the acquired land was suitable for residential as well as commercial purpose due to its location at Patna-Ranchi Road. The Land Acquisition Officer in his report (Ext. B and B/1) had opined that the lands of Garhochak and Samaspur are similar in nature in respect of the site and situation and, as such, determined the compensation of land, under acquisition, of Garhochak and Samaspur at the rate of Rs.26,666/- per acre for Grade-1 land and Rs. 15,484/- for Grad-2 land. The land Acquisition Officer had based his assessment on Ext.A, which is the sale statement obtained from the Registry Office on the basis of the sale deed dated 31.03.1980 with respect to plot no. 286, area 3.75 decimals sold for Rs.1000/- as mentioned in Schedule-II of the sale statement.

5. The main contention raised on behalf of the cross objectors is that the Collector committed illegality in assessing the quantum of compensation on the basis of sale statement obtained from the Registry Office. As per the submission of the



learned counsel for the cross-objector, the sale statement cannot be relied upon, as per the observation of Hon'ble the Supreme court in the case of *The Collector, Raigarh Vs. Dr. Hrisingh Thakur and another, reported in AIR 1979 SC, page 472.* The further submission is that a number of exemplar sale deeds were given in evidence by the awardees to show that the value of the land, at the time of acquisition, was much higher than the awarded amount. It has further been argued that, although the court below did not agree with the rate of the amount awarded by the learned Collector and the court below enhanced the compensation on the basis of Ext.1/C, which is also an exemplar sale deed, the learned court below should have taken into the account Ext.1/D which is also an exemplar sale deed dated 01.05.1981 executed by Ghamandi Paswan in favour of Awadh Prasad in respect of plot no. 20, area 0.6 decimals for Rs. 20,000/-. The learned counsel submitted further that as per the decision of the Hon'ble Supreme Court reported in the case of **Anjani Molu Dessai vs. State of Goa and another (2010 13 SCC 710)**, the exemplar sale deed of the highest value should be taken into consideration, as such, the compensation should have been determined on the basis of Ext.1/D, as it was for the highest consideration money.



6. On the other hand, the learned counsel for the State of Bihar submitted that the awarded amount was exorbitant and it is liable to be decreased, but this appeal was dismissed as withdrawn on technical ground, as noted above.

7. 12 reference cases under Section 18 of the Act were disposed of by the impugned judgment and award.

8. Altogether 12 witnesses have been examined on behalf of the awardees, out of which A.W.1 to A.W. 10 are the awardees themselves. A.W.1 is Gauri Shankar Rai, awardee of L.A.Case No. 6 of 1985, A.W.2 is Jamun Rai, awardee of L.A. Case No. 4 of 1985, A.W.3 is Jagdish Narayan Singh, awardee of L.A.Case No. 18 of 1985, A.W.6 Mahendra Rai is awardee of L.A.Case No. 1 of 1985, A.W.7 Kallu Rai is Awardee of L.A.Case No.5 of 1985 and A.W.10 Lala Rai is awardee of L.A.S.Case No. 8 of 1985. In their respective evidences, the awardees deposed that the rate of the land acquired should be Rs. 20,000/- per katha. A.W.11 is Ram Jiwan, the purchaser of the land appertaining to plot no. 286 dated 31.03.1980, on the basis whereof the Collector has assessed the compensation of the acquired land. A.W. 12 is Kailash Das, the executant of the sale deed dated 31.03.1980.

9. A.W. 1 to A.W. 10 have stated in their



depositions that the rate of the acquired land should be Rs. 20,000/- per katha. They have not mentioned as to on what basis they demanded the compensation at the rate of Rs. 20,000/- per katha. AW 12 Kailah Das, who is executant of the sale deed dated 31.03.1980, has stated that he executed the sale deed dated 31.03.1980 in respect of plot no. 286 in favour of his cousin sister Panpatiya Devi, without consideration. The statement of this witness is factually contrary to the recitals of the sale deed, which shows that the executant Kailah Das sold the land for consideration amount of Rs. 1000/-.

10. So far as the submission of the learned counsel for the cross-objectors that the exemplar sale deed Ext. 1/D should have been taken into account for ascertaining the compensation amount, as the amount mentioned in Ext. 1/D was the highest, but the learned court below found that the land appertaining to Ext. 1/D was situated in better location and due to this reason he declined to take into account the Ext. 1/D for determining the quantum of compensation. In my view also, Ext. 1/D should not be taken into consideration for determination of the compensation as it was subsequent to the notification under Section 4(1) of the Act. The notification under Section 4(1) of the Act was published on 16.08.1980,



whereas the sale deed (Ext.1/D) is of 05.01.1981. The learned court below has determined the compensation of the land on the basis of exemplar sale deed Ext. 1/C filed on behalf of the awardees. The learned court below has rightly determined the compensation of the acquired land on the basis of exemplar sale deed Ext.1/C given by the awardees in evidence, as the location of the acquired land was similar to the land appertaining to Ext.1/C.

11. I do not see any reason to interfere with the judgment and order of the learned court below dated 31.08.1988, passed by the Special Land Acquisition Judge-III, Patna in L.A.Case No. 7 of 1985.

12. The cross-objection is accordingly dismissed.

(Nawneet Kumar Pandey, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	26.02.2024
Uploading Date	06.2024
Transmission Date	

