

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11308 of 2014

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Kalicharan Kanth son of Late Sri Krishna Kanth, Resident of village -
Banmankhi, Police Station - Banmankhi, District - Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Water Resources Department, Irrigation Bhawan, Bihar, Patna
2. Director, Land Acquisition and Rehabilitation, Department, Irrigation Bhawan, Bihar, Patna
3. Special Land Acquisition officer, Koshi Project, Saharsa
4. District Magistrate, Purnea
5. Amin Cum-Kanoongo namely Prabhu Narayan Lal, Special Gram Land Acquisition officer, Saharsa
6. Amin namely Shobha Kant Jha, Special Gram Land Acquisition officer, Saharsa
7. The District Land Acquisition Officer, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Nath Jha
For the State : Mr. Chittranjan Sinha, Sr. Advocate, PAAG 2
Mrs. Ratna Kumari, AC to PAAG 2

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

8 25-06-2019

Heard the parties.

2. The petitioner has filed this writ application for a direction to the respondents to pay the amount of compensation against acquisition of his land to the tune of Rs. 47,80,125/- and Rs. 5,20,557/- @ 18% for delayed payment against acquisition of his land by the State Government, situated at Mauza Nipania, Block Barhara, District Purnea and Mauza Mugalia Purandaha, Block Damdaha, District- Purnea . The acquisition is said to



have been made in the year 1988-89 itself. Certain facts are not at all in dispute, as is evident from the counter affidavit, filed by the Special Land Acquisition Officer, Koshi Project, Saharsa on 09.12.2014 and supplementary counter affidavit, filed on his behalf as well as a counter affidavit, filed by the District Land Acquisition Officer, Purnea.

3. It has been stated in the said counter affidavit that the petitioner's land was acquired in the year 2011-12, vide Land Acquisition Case No. 10 of 2011-12, in respect of which an award to the tune of Rs. 47,80,125/- was prepared on 27.05.2013. The petitioner was intimated to receive the amount of compensation by personally being present on 20.06.2013, with the documentary evidence, before the Special Land Acquisition Officer, Koshi Project, Saharsa. It further appears that a dispute had arisen on the question of entitlement to receive the amount of compensation, whereafter the matter was referred to the learned Land Acquisition Special Judge, Purnea on 14.09.2013, which gave rise to Land Acquisition Case No. 03 of 2013. The said land acquisition case was conclusively disposed of by the Lok Adalat, organized by the National Legal Service Authority, in the light of settlement between the parties on 23.11.2013. This is not in dispute that till date the amount of



compensation has not been paid to the petitioner. It would be pertinent to mention that this writ application was filed after the award was made by the Lok Adalat on 23.11.2013, seeking a direction to the State-respondents to make payment.

4. However, in the counter affidavit, filed on behalf of the respondent State of Bihar (respondent nos. 1 to 4), it has been stated, *inter alia*, that the District Land Acquisition Officer, Purnea is now the competent authority to pay the compensation amount of the petitioner. In view of the said stand taken, the District Land Acquisition Officer, Purnea had been impleaded as Respondent 7 on the Court's direction. Accordingly, he filed a Counter Affidavit admitting that the land was acquired for *Khutahari Dhaar Jal Nikas Nala* Project, in terms of the request of the Executive Engineer, Drainage Division, Koshi Project, Purnea, by the Special Land Acquisition Officer, Koshi Project, Saharsa. It has also been stated that in due course, the records of the said acquisition matter were sent to the office of the District Land Acquisition Officer, Purnea by the Executive Engineer acquainting him the fact that the project cost is deposited in PDA 165 and process for withdrawal of the same was in progress. It has been stated furthermore that it was requisite for the District Land



Acquisition Officer, Purnea to provide receipt of the records and also the PDA Account Number for transferring the money of the project cost by letter no.153 dated 28.02.2019. Thereafter, following statements have been made in paragraphs 4 and 5 of the counter affidavit, which are relevant and, therefore, are being quoted hereinbelow:-

“4. That in compliance to the above letter, this respondent no.7 by letter No. 65 dt. 8-03.19 informed the Sl. Land Acquisition Officer, Koshi Project, Saharsa that PD Account number 081 is maintained in his name in the Dist. Treasury, Purnea and requested to transfer the money in the said account. But till date it has not been transferred.

5. That further request has been made by this respondent No.7 by his memo No.-127 dt-02.05.19 & letter No.168 dt. 08.05.19.”

5. It has been thereafter stated in paragraph 11 of the Counter Affidavit filed by the District Land Acquisition Officer, Purnea that due to not providing of the amount, compensation has not been paid. There is no denial of averments made in the writ application, in the counter affidavit filed on behalf of the



respondents. The District Land Acquisition Officer has brought on record a letter dated 08.05.2019, addressed to the Special Land Acquisition Officer, Koshi Project, Saharsa, wherein he has stated that neither the records of Land Acquisition Case No. 06 of 2011-12 have been handed over to the Land Acquisition Officer, Purnea nor the amount of compensation has been transferred. In respect of the present Land Acquisition Case No. 10 of 2011-12, it has also been mentioned in the said letter dated 08.05.2019 that the amount of compensation payable to the petitioner has not been transferred to the office of the District Land Acquisition Officer, Purnea. It is not clear from the said letter, whether the records of Land Acquisition Case No. 10 of 2011-12 have been transferred to the Land Acquisition Officer, Purnea or not. The District Land Acquisition Officer, Purnea has further remarked that the Special Land Acquisition Officer has not placed the correct facts before this Court because of which the he had to be impleaded as a party respondent. Moreover, the Special Land Acquisition Officer has accordingly been requested by the District Land Acquisition Officer, Purnea to make available the connected records and the amount of compensation, so that the amount may be paid to the petitioner immediately.



6. Before I pass final orders, I must not lose sight of certain averments made in the supplementary counter affidavit filed by the Special Land Acquisition Officer, Koshi Project, Saharsa. It has been stated in paragraph 4 of the said counter affidavit that a decision has been taken for closing all the offices of Special Land Acquisition with effect from 31.03.2019, which has been circulated to all concerned, vide memo no. 1465 dated 05.11.2018 (Annexure-F). In paragraph 6 of the same it has been stated that in compliance of the said decision and subsequent direction, the Special Land Acquisition Officer has handed over the records to the District Land Acquisition Officer, Purnea, vide memo no. 153 dated 28.02.2019. Therefore, now, the payment would be made by the office of the District Land Acquisition Officer, Purnea. It has also been stated that the rest of the amount of the said scheme has been deposited in PDA Accounts which would be handed over, as per the demand to the office of the District Land Acquisition Officer, Purnea. What disturbs the Court the most, is the conflicting stands taken on behalf of the Special Land Acquisition Officer, Koshi Project, Saharsa, and the District Land Acquisition Officer, Purnea. [In his affidavit, the Special Land Acquisition Officer, Koshi Project, Saharsa, says in paragraph 6 of the counter affidavit that



the relevant records have already been sent to the District Land Acquisition Officer, Purnea and the amount has been deposited in the PDA Accounts. The District Land Acquisition Officer, on the other hand states that he had communicated for more than 2 months after the said letter dated 28.02.2019, asking the Special Land Acquisition Officer, Koshi Project Saharsa to make available the connected records and the amount, which is payable to the petitioner, by way of compensation and the same has been brought on record by him.

7. From what has been noted above, it can be easily said that in this case there is no *lis* worth adjudication before this Court. The Court is, rather being called upon to consider lethargic attitude of the respondents, their own conflicts and their casual and cavalier approach towards the legitimate rights of the litigants.

8. Be that as it may, in view of the above discussion, it can be safely concluded that it is not in dispute that the petitioner's land has been acquired. This is also not being disputed that the petitioner is entitled to receive the amount of compensation, as determined in the land acquisition proceeding which has not been paid yet. There is no explanation coming forth as to why the amount of compensation could not be paid to



the petitioner during all these years. This writ application has remained pending before this Court for nearly five years. The authorities under the State of Bihar are yet playing blame game on the question as to who is required to pay the amount of compensation.

9. In the facts and circumstance of the case noted above, I dispose of this writ application with the following directions”-

1. Let The Chief Secretary, Govt. of Bihar, give to the petitioner or his representative a personal hearing at 10.30 A.M. on Monday (08.07.2019). In the light of the facts, which have been noted in the present order, he will be obliged to ensure that the entire amount of compensation, which the petitioner is entitled to, is paid to him within a month from the date the petitioner/his representative appears before him.

2. The Chief Secretary will be further be obliged to cause an inquiry for the purpose of fixing the responsibility, which led to the non-payment of the amount of compensation, legally payable to the petitioner, for all these years and



decide whether any departmental action against the erring official(s) is warranted or not.

10. It goes without saying that the petitioner shall be entitled to statutory interest on the amount of compensation payable to him, in accordance with law.

11. This writ application is accordingly allowed with the aforesaid direction with a cost of Rs. 50,000/- to be paid by the State of Bihar to the petitioner within two months.

(Chakradhari Sharan Singh, J)

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