

(2020) 02 PAT CK 0090

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 2809 Of 2020

Alaka Sinha

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 25-02-2020

Acts Referred:

Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Re-Settlement Act, 2013 — Section 3(x), 4, 11, 26

Citation : (2020) 02 PAT CK 0090

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Prince Kumar Mishra, Saugha Mitra Ghosh

Final Decision : Disposed Of

Judgement

1. Learned counsel for the petitioner and learned AC to GP 15 for the State have assisted the Court.

2. The petitioner has moved the Court for the following reliefs:

â??(i) For issuance of writ in the nature of mandamus, directing the respondent authorities to declare the name of petitioner above named as person

interested within the meaning of Section 3(x) of 'RFCTLARR Act', having her right, title interest in the acquired land and grant compensation.

(ii) For holding and declaring that petitioner above named is person interested within the meaning of Section 3 (x) of 'RFCTLARR Act', having her right, title interest in the acquired land.

(iii) For holding and directing to the respondents authorities to consider and apply classification of land acquired for public purpose under survey sakin

Mauza Fursatpur, Thana No. 208, Motihari, East Champaran within the peripheral area as per the circular issued by government of Bihar, Department

of Madh Nishedh, Utpad and Nibandan vide letter no. 10/RA. Classification -94/2015-5021 dated 18.12.2017.

(iv) For declaration that non-implementation of circular issued by Government of Bihar, Department of Madh Nishedh, Utpad and Nibandan vide letter

no. 10/RA. Classification -94/2015-5021 dated 18.12.2017 in the determination of minimum valuation rate acknowledging market value of acquired

land for the registration of sale deeds as well as average sale prices for the similar types of land situated within the nearest villages or vicinity area is

bad in law and against the provisions of 'RFCTLARR Act'.

(v) For holding and declaring that non-consideration of market value as well as average sale price for the similar types of land situated within nearest

village or vicinity area at the date of notification is in violation of Section 11 of 'RFCTLARR Act' and absolutely illegal and bad in law.

(vi) For direction to the respondent authorities to re-evaluate and determine minimum valuation rate acknowledging market value of the land for the

registration of sale deeds or agreements to sell, pertaining to survey sakinmauzaFursatpur in accordance with section 26 of 'RFCTLARR Act'.

(vii) For declaration that land acquired under the survey sakin mauza Fursatpur, and Bairiya, Thana no. 208 & 192 respectively, are within the

Peripheral area as both are situated within the distance of 03 Kilometers from the area of municipal council, Motihari, in consonance with notification

no. I/M-156/2005-611 dated 26/03/2013 issued under Bihar Stamp (Prevention under valuation of instruments) Amendment Rules, 2013.

(viii) For holding and declaring that implementation of 'Social Impact Assessment Study' in the proposed land acquisition is mandatory under clause (5)

of section 4 of 'RFCTLARR Act' and non-implementation of social impact assessment study in the land acquisition proceeding is bad in law as well as

against the intention of the legislature.

(ix) For issuance of writ in the nature of Mandamus, commanding and directing the Respondents authorities to implement and follow the procedure

envisaged under 'The Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013' hereinafter

referred as 'RFCTLARR Act' in the land acquisition proceeding for the construction of Central University in the District of East Champaran

(Bihar).â??

3. At the very outset, learned counsel for the petitioner submitted that at the time of filing of the writ application, the body constituted to hear the matter under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the "Act"), under whose jurisdiction the present matter was required to be filed, was not operational, but now it is functional. It was, thus, submitted that the application be disposed off with liberty to approach the Authority under the Act in the matter.
4. Learned counsel for the State does not oppose.
5. In view thereof, the application stands disposed off with liberty aforesaid. The Court would only observe that it shall be open to the petitioner to raise all points available to him before the Authority under the Act, including those raised in the present writ application.