

(2018) 05 RAJ CK 0130

In the Rajasthan High Court

Case No : Civil Writ Petition No. 10538, 14550, 14424, 14427 of 2017, 10780 of 2016

Sewa Ram @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 14-05-2018

Acts Referred:

Land Acquisition Act, 1894 — Section 4
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24

Citation : (2018) 05 RAJ CK 0130

Hon'ble Judges : SANDEEP MEHTA, J

Bench : Single Bench

Advocate : Pradeep Swami, Jagdish Vyas, Keshav Pareek, Sanjeet Purohit

Final Decision : Disposed Off

Judgement

Issue notice of the writ petition to the respondents in S.B. Civil Writ Petition No.10538/2017.Â Mr. Jagdish Vyas, who is already appearing for the respondent RIICO in other similar matters, is directed to accept notice on its behalf in this matter too.

Â All these writ petitions involve common questions of facts and law and are thus, being decided together by this single order.

It may be mentioned here for the sake of reference that nobody has put in appearance on behalf of the respondent No.4 Land Acquisition Officer despite service of notice.

All the petitioners herein are all agricultural land holders in the areas of village Boranada, Salawas and Heera Khera, Tehsil Luni, District Jodhpur.

The lands of the petitioners were acquired by the respondent RIICO under the provisions of the Land Acquisition Act, 1894. The final award under

Section 4 of the Act of 1894 was passed on 24.09.2013. The petitioners received the compensation under protest and thereafter, filed objections

judgment relied upon by him in support of his contentions but, they too are not in a position to dispute the admitted factual situation that the distribution of compensation to the majority of the land-holders was indeed started after 01.01.2016.

The proviso to Section 24 of the Act of 2013 which governs the situation at hand is reproduced herein below for the sake of ready reference:

“Provided that where an award has been made and compensation in respect of a majority of land holding has not been deposited in the account of the beneficiaries, then, all the beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

It is clear from a plain reading of the proviso that where an award has been made under the Land Acquisition Act, 1894 and the compensation in respect of majority of land holdings has not been deposited in the account of the beneficiaries till the date of coming into force of the Act of 2013 then,

all beneficiaries specified in the notification for acquisition under Section 4 of the Land Acquisition Act, 1894 shall be entitled to compensation in lieu

of acquisition in accordance with the provisions of the Act of 2013. The State Government has also issued the above quoted notification in lines of this

proviso. The provision of law being unambiguous and the factual position regarding compensation in respect of majority of the land holdings not having

been deposited in the account of beneficiaries on the date of commencement of the Act of 2013 (01.01.2014) not being in dispute, it has to be held that

the petitioners and all other similar land holders referred to in the notification issued under Section 4 of the Act of 1894 are entitled to revision/re-

assessment of compensation in terms of the Act of 2013. Controversy exactly identical to the one involved in the matters at hand was decided by a

Coordinate Bench of this Court in the above bunch of writ petitions in the following terms:

“As observed earlier, the admitted position in these cases is that though the award was passed on 20.11.2014 but the sanction of compensation

amount was received only on 05.01.2015 and, therefore, it is clear that the compensation to the petitioners was not paid on or before 31.12.2014 and in

that situation as per the latest guidelines issued by the MoRTH on 28.12.2017, compensation would be payable to the petitioners in accordance with

the First Schedule of Acquisition Act of 2013.

In view of the above discussions, these writ petitions are disposed of with the direction to the respondents to redetermine the compensation amount,

awarded to the petitioners, and revise the award dated 20.11.2014 as per the First Schedule of the Acquisition Act of 2013 within a period of three

months from the date of production of certified copy of this order.â??

It is stated that the petitioners have already submitted applications to the Land Acquisition Officer for revision of the compensation payable to them in

accordance with the Act of 2013. Upon presentation of copy of this order, the Land Acquisition Officer, after objective consideration of the facts and

statistics available on record, shall re-assess and revise and pay enhanced compensation to the petitioners as per their entitlement under the Act of

2013. The entire exercise as directed above shall be completed within a period of ten weeks from the date of submission of copy of this order.

With these observations and directions, the writ petitions are allowed. Stay petitions are disposed of.

A copy of this order be placed in each file.