

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 1608 of 2020

1. Phoolchand Ram Mahto
 2. Mahesh Mahto @ Mahesh Kumar Petitioners

Versus

1. The State of Jharkhand
 2. The Deputy Commissioner, Giridih
 3. The Additional Collector, Giridih
 4. The District Land Acquisition Officer-cum-Competent Authority under the National Highways Act, Giridih
 5. The Executive Engineer, National Highway Division, Dhanbad Respondents

CORAM**HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Petitioners: Mr. A. K. Sahani
 For the State: Mr. Rahul Saboo, S.C-I

03/09.07.2020 The present writ petition has been filed for issuance of direction upon the respondents to pay compensation to the petitioners on determination of the same under the provisions of Section 3 of the National Highways Act, 1956 in respect of the land measuring an area of 11.5 Decimals being part of Plot No. 491, Khata No. 3/53, Mouza-Poraiya, District-Giridih which has been acquired by the respondent authorities for the purpose of widening of NH-2.

Learned counsel for the petitioners submits that the said land of the petitioners was initially settled by the ex-landlord to Ghungha Mahto, son of Ruplal Mahto and he was put in peaceful possession thereof. Thereafter, Ghungha Mahto converted some part of the said land for agricultural purpose and some part for residential purpose. After the death of Ghungha Mahto, the petitioners being his grandsons inherited the said property. It is further submitted that the name of Ghungha Mahto @ Ghungha Chowkidar, son of Ruplal Mahto has also been entered in Register-II maintained in the office of the Circle Officer, Dumri. The petitioners have also paid rent to the Government for the said land for the financial year 2014-15 and 2015-16 and the rent receipt dated 05.04.2015 has also been issued in the name of Ghungha Chowkidar. On 16.11.2015, the respondent No.4 issued notice to the petitioners and their brothers to the effect that an area of 11.50 Decimals of the said land has been

acquired for the purpose of widening of NH-2 and a sum of Rs.12,59,191.16 has been assessed as compensation. The petitioners were thus directed to appear in the office of the respondent No.4 to accept the compensation. Though the petitioners appeared before the respondent No.4 along with the relevant documents for receiving the compensation, yet they did not receive any compensation. On 08.07.2017, the brother of the petitioners made representation before the respondent No.3 requesting inter alia for taking steps to make payment of compensation expeditiously. Thereafter, the respondent No.3 vide letter No. 1711 dated 31.07.2017, directed the Circle Officer, Dumri to take appropriate steps on the representation of the petitioners' brother. On 03.10.2018, one of the brothers of the petitioners namely Baleshwar Prasad Mahto made another representation before the respondent No.2 stating inter alia that despite acquisition of the said land, the amount of compensation has not been paid and a request was again made for expeditious payment of compensation. The respondent No.4 thereafter vide memo No. 1851 dated 24.10.2019 issued another notice to the petitioners and their brothers asking them to appear before him with the relevant documents to receive the compensation. The petitioners appeared before the respondent No.4 and complied the directions as contained in the notice dated 24.10.2019, however, no compensation has yet been paid to them. Learned counsel for the petitioners also submits that though the said land is residential in nature, yet the same has been shown as agricultural land in the notice dated 16.11.2015 issued by the respondent No.4.

Mr. Rahul Saboo, learned S.C-I appearing on behalf of the State of Jharkhand, submits that the present matter requires factual determination by the competent authority and as such if the petitioners prefer fresh representation(s) along with the relevant documents before the respondent No.4 on the present issue, an appropriate decision will be taken in accordance with law.

Having heard learned counsel for the parties and keeping in view the nature of the prayer made in the present writ petition, without entering into the merit of the case, the petitioners along with their brothers are given liberty to file fresh representation(s) along with the supporting documents before the respondent No.4 on the present issue. On receipt of such representation(s), the respondent No.4, after making due enquiry and on providing adequate opportunity of hearing to the petitioners/their representatives, shall take appropriate decision in accordance with law preferably within a period of three months from the date of filing of the said representation(s).

The present writ petition is accordingly disposed of with the aforesaid liberty and direction.

Satish/-

(RAJESH SHANKAR, J)