

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8036 OF 2011

PARKASH KUMAR JHA & ORS.

APPELLANT(S)

VERSUS

STATE OF BIHAR & ANOTHER

RESPONDENT(S)

O R D E R

The challenge in the present appeal is to an order passed by the High Court of Judicature at Patna on 16.04.2010 in the First Appeal wherein award passed by the Reference Court on 05.01.1994 was upheld and the appeal was accordingly dismissed.

The process of land acquisition was initiated vide notification under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') on 01.03.1987. The Section 6 notification was published on 09.03.1987. The Land Acquisition Officer in its recommendation dated 20.04.1987 recommended the market value of the land as Rs. 1,64,772/- per acre. However, the Additional Collector in its award dated 24.04.1987 considering the recommendations of the Land Acquisition Officer assessed the market value at Rs. 86,000/- per acre.

The land owners being aggrieved of the award sought reference under Section 18 of the Act. The Reference Court

dismissed the claim of enhancement on the ground that the land owners had consented for the grant of compensation at the amount awarded by the Land Acquisition Collector. The Reference Court however allowed a sum of Rs. 2000/- per acre as severance charges. Thereafter, the landowners filed first appeal, which was dismissed by the High Court. The said order is the subject matter of challenge in the present appeal.

A perusal of the record shows that before notification under Section 4 was published, the land owners had surrendered possession of 4 acres of land for the setting up of a Doordarshan Center. Another 22 decimals of land were gifted to provide access to the land measuring 4 acres. The possession of land admeasuring 4 acres and 22 decimals was surrendered to the State/ Doordarshan.

The Collector has passed an order on 26.11.1986 which records such surrender of possession of 4 acres of land and also that the payment of compensation would be as per law. The relevant extract from the order of the Collector reads thus:

“The above said land belongs to Shri Banmali Jha S/o Shivanand Jha, Hridayaganj, P.S. Katihar, Distt. Katihar. He has given in writing that he has no objection on this land being acquired for the proposed Doordarshan Kendra and he has expressed his consent that even before the proceeding for acquisition is concluded and prior to the payment of compensation as per law,

has given his consent for transferring the possession of the land as per the requirement. The officers of govt. of India, Akashvani & Doordarshan, Eastern Zone Kolkata, are inspected the Land and they have found the said land suitable for the Doordarshan Kendra. Chief Engineer, Akashvani & Doordarshan Eastern Zone, Kolkata, through his telegram dated 20.11.86 has made the request that the possession of the selected spot may be given to the Assistant Director Akashvani & Doordarshan, Kolkata. Sri F. Rizwan, Assistant Director, Akashvani and Doordarshan, Eastern Zone, Kolkata has come today i.e. on 26.11.86 to Katihar for taking possession at the spot. The owner of the land, Shri Banmali Jha is also present and he has agreed to hand over the possession of the land today. In the above circumstances, I, Brejesh IAS, Collector Katihar, under the land Acquisition Act 1984, grant permission to Shri F. Rizwan, Assistant Director, Akashvani & Doordarshan Eastern Zone, Kolkata for taking possession of the selected land for acquisition according to prescribed rules & law to build the Doordarshan Kendra at the spot..."

We do not find any consent of the land owners for payment of compensation as has been observed by the Reference Court as well as by the High Court. In respect of compensation, the Collector has clearly stated that compensation would be payable as per law. If there was a consent for payment of compensation, there was no necessity for publication of notification for acquiring land under

the Act. Since it appears to be a disputed question of payment of compensation, therefore, the Collector- Katihar has taken possession but has left the question of payment of compensation as per law. Therefore, the finding recorded by the Reference Court as well as by the High Court that the compensation was mutually settled is clearly erroneous.

The Land Acquisition Officer records that at the time of surrender of possession in favor of Doordarshan, the estimated value of land was Rs.1,00,000/- per acre after taking into consideration acquisition for the other purposes in the village in question. But the Land Acquisition Collector awarded a sum of Rs. 86,000/- per acre. The order of the Collector does not show how the value recommended by the Land Acquisition Officer was not agreed upon by him.

Since the land owners had volunteered to surrender possession, they are entitled to compensation for such land expeditiously and not to render them run from pillar to post for last more than 35 years.

The Reference Court and the High Court have clearly erred in law in assuming that there was a consent in respect of payment of compensation.

Now, one option is to remit the matter to Reference Court for fresh determination of the market value; the other option suggested by learned counsel for the appellant is to award Rs.1,64,772/- per acre along with statutory benefits to avoid further delay in payment of compensation.

In view of the above, we dispose of the present appeal and direct the respondents to pay a compensation of Rs.1,64,772/- per acre as well as Rs.2000/- per acre as severance charges determined by the Reference Court in exercise of power conferred on this Court under Article 142 of the Constitution. The land owners shall be entitled to the benefit of the Land Acquisition (Amendment) Act, 1984 (Act No. 68 of 1984). Thus, they shall also be entitled to 30% solatium, 12% additional market value, 9% interest for the first year and 15% interest for the remaining years till the payment is actually made to them.

The entire payment should be made to the land owners within a period of 3 months from today. It is needless to say that the amount already paid to the land owners shall be adjusted while calculating the amount payable by virtue of this order.

The appeal is accordingly disposed of.

Pending application(s), if any, also stand disposed of.

.....J.  
[HEMANT GUPTA]

.....J.  
[V. RAMASUBRAMANIAN]

NEW DELHI;  
10TH FEBRUARY, 2022

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[HEMANT GUPTA]

.....J.  
[V. RAMASUBRAMANIAN]

NEW DELHI;  
10TH FEBRUARY, 2022

RE-REVISED

ITEM NO.102 Court 11 (Video Conferencing)

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 8036/2011

PARKASH KUMAR JHA &amp; ORS.

Appellant(s)

VERSUS

STATE OF BIHAR &amp; ANR.

Respondent(s)

Date : 10-02-2022 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA  
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Appellant(s) Mr. Akhilesh Kumar Pandey, AOR

For Respondent(s) Mr. Abhinav Mukerji, AOR  
Mrs. Bihu Sharma, Adv.  
Ms. Pratishtha Vij, Adv.  
Mr. Akshay C. Shrivastava, Adv.Mr. Sahil bhalaik, AOR  
Mr. Tushar Gir, Adv.UPON hearing the counsel the Court made the following  
O R D E RThe appeal is disposed of in terms of the corrected  
signed order.Pending application(s), if any, also stand disposed  
of.(SWETA BALODI)  
COURT MASTER (SH)(RENU BALA GAMBHIR)  
COURT MASTER (NSH)

(Corrected Signed order is placed on the file)



ITEM NO.102                      Court 11 (Video Conferencing)                      SECTION XVI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

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For Appellant(s)            Mr. Akhilesh Kumar Pandey, AOR

For Respondent(s)        Mr. Abhinav Mukerji, AOR  
                                  Mrs. Bihu Sharma, Adv.  
                                  Ms. Pratishtha Vij, Adv.  
                                  Mr. Akshay C. Shrivastava, Adv.

                                  Mr. Rajeev Sharma, AOR

                                  Mr. Sahil bhalaik, AOR  
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(SWETA BALODI)  
COURT MASTER (SH)

(RENU BALA GAMBHIR)  
COURT MASTER (NSH)

(Signed order is placed on the file)