

**The State of Bihar Vs. Govind Prasad**

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**Court :** Jharkhand

**Decided On :** Sep-30-2004

**Reported in :** 2005(1)BLJR813

**Judge :** Hari Shankar Prasad, J.

**Acts :** [Land Acquisition Act, 1894](#) - Sections 4, 18, 23(2) and 28

**Appeal No. :** Appeal from Original Decree No. 120 of 1995(R)

**Appellant :** The State of Bihar

**Respondent :** Govind Prasad

**Advocate for Def. :** M. Kumar, Adv.

**Advocate for Pet/Ap. :** Shamim Akhtar,; A. Kumar and; J. Sultan, Advs.

**Disposition :** Appeal dismissed

**Judgement :**

**Hari Shankar Prasad, J.**

1. This appeal, by the State of Bihar now Jharkhand, is directed against the judgment dated 1.6.1993 and award dated 21.7.1993, corrected vide order dated 4.2.1994 passed in Land Acquisition Case No. 15/82, whereby and whereunder the learned Subordinate Judge No. 1-cum Land Acquisition Judge, Palamau

allowed the reference and enhanced the compensation.

2. Pursuant to the notification under Section 4 of the Land Acquisition Act published in District Gazette, lands appertaining to plot Nos. 55, 67 and 730 under khata Nos. 60 and 1 measuring area of 0.36 acre, 0.05 acre and 0.94 acre respectively of village Sons, P.S. Lesliganj, District-Palamau were acquired for Sons Madhayam Sinchai Project from the possession of the applicant. Further case of the applicant is that the lands were owned and possessed by the applicant vide Notification No. 2/94 dated 9.5.1979 and possession of the land was taken over by the Land Acquisition Officer anti-compensation was prepared and awarded to the applicant but the applicant objected the amount of compensation and sought reference of the case to the Land Acquisition Judge under Section 18 of the Land Acquisition Act. The further case of the applicant is that he got objection to the classification of land and rate of compensation, which has been allowed but the objection of the applicant was turned down and a sum of Rs. 1432.93 N.P. was determined as the amount of compensation payable to the applicant in lieu of 1.37 acres of land and trees. The applicant received the aforesaid amount under protest. The applicant has stated that amount of compensation determined and paid by the Land Acquisition Officer is arbitrary, inadequate and unjust. The Land Acquisition Officer ought to have determined the amount of compensation according to prevailing market rate and the applicant's lands are situated at village Sons, P.S. Lesliganj, District-Palamau, which are very much suitable and profitable for the agricultural purposes but neither the prevailing market rate was considered nor the potentiality of the land was taken into consideration and thus the award is wholly illegal and against the provisions of law. No local inspection was made by the Land Acquisition Officer and had he made a local inspection of the land in question, he would have assessed the higher rate of compensation and there was no measurement of demarcation done at the spot nor any Istehar was published. The land in the vicinity under plot No. 61 belongs to Smt. Kulu Devi, wife of Ram Sewak Sao, has also been acquired. The lands of applicants are Dhan II land and the Lands of Kulu Devi are Dhan III land but inspite of this, compensation for the lands of Kulu Devi has been assessed at the rate of Rs. 6,500/- per acre. The applicant with great labour and cost has converted some lands from tanr to Dhan II land and these lands are more

valuable than the lands of plot No. 61. The land of the applicant is below private Bandh and has irrigational facilities and the applicant grows 40 mounds paddy per acre and 25 mounds wheat per acre as per pukka weight. The Dhan lands of nearby place have been sold at Rs. 15,000/- per care and tanr land at Rs. 10,000/- per acre and the applicant's land are more useful and valuable than the above mentioned lands and, therefore, the lands of the applicant should have been sold at more price than that of and if correct valuation of the acquired lands of the applicant is assessed then the total amount will come at Rs. 19,260/- and as against that a sum of Rs. 1,432/- has been assessed as amount of compensation.

3. On the other hand, the Land Acquisition Officer has assessed and paid the compensation amount at the following rate :

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| No. | Award No.  | Total area of land of village | Khata No.  | Plot No. | Area       | Sons | P.S.                      |
|-----|------------|-------------------------------|------------|----------|------------|------|---------------------------|
|     |            |                               |            |          |            |      | Lesliganj                 |
| 9   | 1.37 acres | 60 56                         | 0.38 acres | 1 57     | 0.05 acres | 1730 | 0.94 acres                |
|     |            |                               |            |          |            |      | Amount paid Rs. 1432.13.' |

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4. The applicant respondent has examined as many as four witnesses. AW 4 is Narbadeshwar Prasad. He has proved the sale deed in the writings of Ramnandan Singh, Advocate clerk. This deed has been executed by Ramgrihi Dubey in favour of Ram Lal Sao, which has been marked as Ext. 1/A from perusal of this deed, it appears that about 12 decimals of land of village Sons was sold at Rs. 1500/- on 19.9.1977. Another sale deed, which has been marked as Ext. 1, has been proved by Ramhit Prasad Yadav and this Ext. 1 shows that 15 decimals of land was sold at Rs. 1,500/- on 18.10.1975. It means that land was sold at Rs. 100/- per decimal and it also appears that at the time of acquisition this was the prevailing market rate in respect of Dhan-I land. AW 1 Hari Prasad, who is own son of the applicant, has deposed that Rs. 15,000/- per acre was the price of Dhan land and Rs. 10,000/- per acre was the rice of Tanr land. AW 2 is Ramhit Prasad Yadav, who has also stated the same as AW 1 has stated and AW 3 Ram Narain Mahto has stated and given the same rate. Ext. 2 is an attested copy of valuation Khatiyani filed by the opposite party and he has also filed Khatiyani marked as Ext. 3

5. On the behalf of the opposite party, one witness Anirudh Prasad has been examined as OPW 1. He has brought the report and statement of Land Acquisition Officer marked as Ext. A. This Ext. shows that the Land Acquisition Officer has recommended Rs. 12,500/- per acre the price of Dhan I land and Rs. 7,642/- per acre the price of Dhan II land. From perusal of khatian marked as Ext. 3, it appears that plot No. 85 under Khata No. 60 area 0.38 decimals and plot No. 57 under khata N. 1 area 0.05 decimals of applicant's was acquired, which were Dhan II land and the applicant should have paid Rs. 3300/- for 43 decimals of Dhan II land and Rs. 12,000/- the price of Dhan I land.

6. Learned counsel appearing for the appellant/opposite party, has submitted that the Land Acquisition Judge has committed error in fixing the amount of compensation for the lands acquired at a very exaggerated rate and that the Land Acquisition Judge has not considered the prevailing market and, therefore, the compensation and award, which was prepared after proper valuation of land, was correct one.

7. On the other hand, the learned Court below has assessed the compensation of both Dhan I and Dhan II land on a careful scrutiny of evidence both oral and documentary and the findings of the learned Court below is quoted hereinbelow :

'7. On behalf of the O.P. Anirudh Prasad OPW 1 has been examined. He has brought the report and statement of Land Acquisition Officer marked Ext. A. This Ext. A shows that the L.A.O. has recommended Rs. 1,25,000/- per acre the price of Dhan I land and Rs. 6742/- per acre the price of Dhan II land. From perusal of Khatian marked Ext. 3 it appears that plot No. 55 under khata No. 60 area 0.38 decimals and plot No. 57 under khata No. 1 area 0.05 decimals of applicant's land was acquired which were Dhan II land. So the applicant should have been paid Rs. 3300/- for 43 decimals of Dhan II land and Rs. 12,000/- the price of Dhan I land. Thus from perusal of the oral as well as documentary evidences adduced by the parties it is apparent that the applicant's land being agricultural land was Dhan I and Dhan II land and the applicant should have been given compensation of Rs. 15,300/- as price of his land. I think that the L.A.O. has illegally and arbitrarily valued the amount of compensation for the land at a very low price. The L.A.O.

has not considered the prevailing market price of the land.

8. The above being the position of facts I value the price of land in acquisition at the Rs. 12,000/- for 96 decimal of land Dhan I and Rs. 3,300/-for 43 decimals of land Dhan II. The applicant is also entitled for additional compensation at the rate of 30% as provided under Section 23(2) of the L.A. Act. The applicant is also entitled for interest on the amount of excess compensation as required under Section 28 of the L.A. Act. However this amount will include the amount of compensation already paid to the applicant. Let the award be prepared in the name of the applicant Gobind Prasad s/o Late Mangleshwari Prasad R/O village Kathaundha P.S. Lesliganj, District-Palamau accordingly.

8. Taking into consideration the facts and circumstances and going through the records, I do not find any reason to interference with the impugned judgment and award of the learned Court below. This appeal is dismissed, but in the circumstances, without any order as to costs.

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