

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1414 of 2013
IN
Civil Writ Jurisdiction Case No. 3398 of 2013

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1. Manoj Kumar Sinha, son of Late Nawal Kishore Lal,
2. Ashok Goshwami, S/O Late Chhote Lal
3. Kiran Devi, W/O Sri Uday Singh,
All of them resident of Village Bajitpur, Near Main Road, Belaganj, P.S-
Belaganj, District- Gaya., And R/O Belaganj, P.S- Belaganj, District- Gaya.

.... Appellant/s

Versus

1. The Union of India through the Ministry of Road Transport Highways, Transport
Bhawan I, Parliament Street New Delhi.
2. The Secretary, National Highways Authority of India G- 5and 6, Sector 10
Dwarika New Delhi-110075.
3. National Highways Authority of India D- 63 Sri Krishnapuri, Patna- 800001.
4. The State of Bihar through the Chief Secretary Government of Bihar, Old
Secretariat, Patna.
5. The Collector, Gaya.
6. The District Land Acquisition Officer, (Competent Authority), District- Gaya.

.... Respondents-Respondent/s

With

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Letters Patent Appeal No. 1518 of 2013
IN
Civil Writ Jurisdiction Case No. 3499 of 2013

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1. Urmial Devi, wife of Subodh Kumar Mishra
2. Sushil Kumar Mishra, son of Subodh Kumar Mishra
3. Rampati Prasad, son of Late Chandradeep Singh
All R/V Bajitpur, P.S. - Belaganj, District - Gaya

.... Appellant/s

Versus

1. The Union of India through the Ministry of Road Transport Highways, Transport
Bhawan I, Parliament Street New Delhi.
2. The Secretary, National Highways Authority of India G- 5and 6, Sector 10
Dwarika New Delhi-110075.
3. National Highways Authority of India D- 63 Sri Krishnapuri, Patna- 800001.
4. The State of Bihar through the Chief Secretary Government of Bihar, Old
Secretariat, Patna.
5. The Collector, Gaya.
6. The District Land Acquisition Officer, (Competent Authority), District- Gaya.

.... Respondent/s

With

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Letters Patent Appeal No. 670 of 2014
IN
Civil Writ Jurisdiction Case No. 4357 of 2013

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1. Munshi Singh, son of late Chandradeep Singh,
2. Rajeshwari Devi, wife of Late Nilmani,
3. Ram Ratan Yadav, son of Late Bacchu Yadav, All resident of Village- Bajitpur,
Near Main Road, Belaganj, P.S.- Belaganj, District- Gaya.
..... Petitioners- Appellant/s

Versus

1. The Union of India through the Ministry of Road Transport & Highways,
Transport Bhawan I, Parliament Street New Delhi.
2. The Secretary, National Highways Authority of India, G- 5 and 6, Sector 10
Dwarika New Delhi-110075.
3. National Highways Authority of India D- 63 Sri Krishnapuri, Patna- 800001.
4. The State of Bihar through the Chief Secretary Government of Bihar, Old
Secretariat, Patna.
5. The Collector, Gaya.
6. The District Land Acquisition Officer, (Competent Authority), District- Gaya.
..... Respondent/s

Appearance :

(In all the Appeals)

For the Appellants : Mr. Nagendra Sharma, Advocate
For the Respondent-State : Mr. Sanjay Pandey, G.P.-21
Mr. Raju Giri, G.P.-30
Mr. Nishant Kumar Jha, A.C. to G.P.-21
Mr. Pramod Kumar Sinha, A.C. to A.A.G.2
For the Respondent-NHAI : Mr. Shri Nath Pathak, Advocate
For the Respondent-UOI : Mr. Satya Prakash Tripathi, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 13-01-2015

These three Letters Patent Appeals have been
filed by the concerned writ petitioners feeling aggrieved by
the orders dated 19.06.2013 and 24.09.2013 passed in
CWJC Nos.3398, 3499 and 4357 of 2013 respectively.

Briefly stated the facts of the case are that the
National Highways Authority has taken up the work of



widening of National Highway No.83, particularly the Highway passes through Bajitpur Village, near Main Road, Belganj, District-Gaya. On finding that the road passing through that village is very narrow and widening of it would involve demolition of quite number of houses, the authority has taken a decision to provide a by-pass road.

On earlier occasion, CWJC No.515 of 2011 was filed before this Court by some of the villagers challenging the very proposal to provide by-pass. The writ petition was disposed of on 10th April, 2012, leaving it open to the petitioners therein to submit a representation. The District Collector, Gaya was directed to consider the representations, not only of the petitioners therein, but also of other affected parties.

About 500 persons, including the petitioners, are said to have submitted a representation to the Collector, Gaya ventilating their grievance. The Collector, in turn, passed an order dated 21.07.2012, taking the view that there is nothing wrong with the proposed work and the affected persons can be paid adequate compensation.

The petitioners challenged not only the concerned Notification issued under the National Highways Act, 1956 (for short, 'the Act') in respect of their properties, but also of



the order of the Collector, Gaya. Their grievance was that the procedure prescribed under the Act, particularly in the context of Notification, was not followed and that the District Collector did not give opportunity to other persons who submitted their representation. It was also pleaded that though there is alternative land available on the other side of the village; the proposed by-pass is being taken for the benefit of some persons.

The learned Single Judge dismissed the writ petitions, through the abovementioned orders. Hence, these three Letters Patent Appeals.

Heard Sri Nagendra Sharma, learned counsel for the appellants, Sri S. N. Pathak, learned counsel for the National Highways Authority and Sri Sanjay Pandey, learned Government Pleader for the respondent-State.

It is, no doubt, true that the acquisition of the house or a land of an individual for the purpose of Highway or other projects would virtually uproot them from the village and it would be difficult for him to acquire or secure other premises or a piece of land. All the same, the inconvenience caused to any individual needs to be weighed against the larger public need.

The provision of by-pass on the National



Highways is almost a matter of course. The object is to avoid demolition of quite large number of houses abutting the existing road in the village or city. It is only when any proposal is found to be malafide or technically unviable or untenable, that this Court would be in a position to interfere with the acquisition. In the instant case, neither any malafide is attributed, nor it is established that technically, the proposal is unviable or untenable. Added to that, that the project is in an advanced stage of progress. The Notification was issued in the year 2010 and substantial portion of the work is completed. The extent of the land involved in all the three Letters Patent Appeals is said to be nine kathas, which is almost 1/3rd of acres of land.

When about 100 acre of land is acquired for the by-pass road and the work is already in progress, the same cannot be interdicted on the basis of complaint made by the persons owning very small extents. This, we say, even if there was slight deviation from the prescribed procedure, whether looks the matter from the point of the larger public cause or the stage of the proceedings, it becomes impossible to interfere with the matter.

In all fairness to the petitioners and other persons whose land is acquired, the District Collector made

an observation that they deserve to be awarded adequate compensation in a proper manner. If the appellants have any grievance about the adequacy of compensation, the same can be worked out in accordance with law.

We do not find any basis to interfere with the order passed by the learned Single Judge in the writ petitions. Letters Patent Appeals are, accordingly, dismissed leaving it open to the appellants to work out the remedies for enhancement of the compensation, if they are not satisfied with the one, determined by the acquiring officer.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Gopal Prasad, J)

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