

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1896 of 2015

IN

Civil Writ Jurisdiction Case No. 15819 of 2011

- =====
1. The State of Bihar
 2. The Principal Secretary, Disaster Management, Government of Bihar, Patna
 3. The Director, Disaster Management, Government of Bihar, Patna
 4. The Commissioner, Munger Division, Munger
 5. The District Magistrate, Khagaria
 6. The District Land Acquisition Officer, Khagaria
 7. The Sub-Divisional Officer, Gogari, Khagaria
 8. The LRDC, Gogari, Khagaria
 9. The Circle Officer, Parbatta Anchal, Parbatta, Khagaria

.... Appellants

Versus

Shivendra Narayan Singh, S/O Late Satya Deo Narayan Singh, resident of Village + P.O. + P.S. - Parbatta, District - Khagaria, presently residing at Mohalla - Shivpuri, P.S. - Shastri Nagar, District - Patna

.... Respondents

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Appearance :

For the Appellant/s : Mr. Pushkar Narain Shahi, A.A.G.
Mr. Harsh Singh, Advocate

For the Respondent/s : Mr. Amit Srivastava, Advocate
Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 14-12-2015

The State of Bihar is in appeal, under Clause 10 of the Letters Patent Appeal of this Court, being aggrieved by the order, dated 07.02.2015, passed in C.W.J.C. No. 15819 of 2013 modified vide order, dated 12.03.2014, passed, in M.J.C. No. 742 of 2014, by a learned single Judge of this Court.

2. We have heard Mr. Pushkar Narain Shahi, learned Additional Advocate General, for the appellants, and Mr. Ashutosh Ranjan Pandey, learned Advocate, appearing on behalf of the sole Respondent.

3. By the order under appeal, the learned single Judge has directed the Collector of the district, Khagaria, to calculate and pay, just and equitable compensation payable for deprivation or unlawful occupation of the respondent's land from the year 1976 till date. It transpires from the records that in order to rehabilitate the flood victims of the area, in the year 1976, the land of the respondent and other family members were sought to be acquired and land acquisition proceedings were initiated for the purpose of acquisition of the lands and payment of compensation to them. It also transpires from the records that the efforts were made to conclude the acquisition proceeding, but for some reason or the other, the proceedings lapsed, though the lands, in question, in fact, were settled in favour of the flood victims and remained in their occupation.

4. Learned single Judge, having found it to be impossible to restore the land to the respondent after several decades, opined that the acquisition of the land became fait accompli. Learned single Judge's observations, made in this regard, reads as under:

"The second head would be permanent

deprivation of the petitioner i.e. acquisition of the land in question. As already held that the acquisition is a fait accompli what is now to be calculated and paid would be compensation as acquisition would be deemed to be finalized as of date. Petitioner would be entitled to compensations of date under the appropriate law existing today, which would be the new Act, namely, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Thus, for the purposes of calculating compensation, the Collector would have to refer to the provisions of the aforesaid Act, which has come into force with effect from 01.01.2014 repealing the Land Acquisition Act and pay the same to the petitioner within three months from today. Petitioner would be entitled to file claims for calculation of compensation before the Collector, which he should do immediately to facilitate early settlement of his claims under both the said heads. Collector would be well-advised to consider the same before passing final orders calculating the compensation under both the heads. The responsibility of timely compliance would be exclusively that of the

Collector of the district.”



5. Mr. Pushkar Narain Shahi, learned Additional Advocate General has attempted to convince us that in the absence of conclusion of the land acquisition proceeding no compensation ought to have been directed by learned single Judge to be paid, merely on the basis of the fact that certain persons were in occupation of the lands. Such an occupation of the land, in question, could be, at the best, described, as an encroacher and, therefore, the respondent was not entitled to obtain any compensation from the State Government for loss of possession of his lands.

6. The writ application, under Article 226 of the Constitution of India was filed by the respondent alleging that the State authorities had taken possession of his lands, in the year 1976 itself for the purpose of rehabilitation of displaced persons of village-Jankichak, and, thereafter, had initiated proceedings vide L.A. Case No. 70 of 1979-80/71/1981-82 for acquisition proceeding of his land situated in Mauza Rampur @ Rahimpur English. According to him, though several notifications, under Sections 4 and 6 of the Land Acquisition Act, 1894 were initiated, they were allowed to lapse, casually, by the State of Bihar. Consequently, while the flood victims were rehabilitated on the lands of the respondent due to emergent

situation, no compensation could be paid to him.

7. We have perused the original records produced by Mr. Shahi, learned Additional Advocate General, relating to Land Acquisition Proceedings No. 70 of 1979-80 and 71/1981-82. From the said proceedings, we find that the Circle Officer had taken possession of the said land in the year 1982 itself. In such circumstance, in all fairness, the appellant-Collector/State of Bihar ought to have determined and paid the just and due compensation to the respondent, as has been directed by learned single Judge.

8. We do not find any infirmity in the order under appeal. The appeal, thus, stands dismissed. However, in the facts and circumstances of the case, we extend the time, granted by the learned single Judge for payment of due compensation by the order under appeal, by three months from today. The order under appeal stands modified to that extent only.

(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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