

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21124 of 2012

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1. Smt.Kamla Sharan, wife of late Shiv Sharan (expunged vide order dated 11.04.2013)
2. Sri Hridya Ranjan Sharan, S/O Late Shiv Sharan, Resident Of Mohalla - Lohanipur West, P.S. Kadamkuan, District - Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Land Reforms and Revenue, Govt. Of Bihar, Patna
3. The Director Land Acquisition, Govt. Of Bihar, Patna
4. The District Magistrate, Patna
5. The Additional Collector, Patna
6. The District Land Acquisition Officer, Patna
7. The Sub-Divisional Officer, Danapur, District - Patna
8. The Circle Officer, Bihta District - Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Keshav Shrivastava, Sr.Adv.
Mr.Bhubneshwar Prasad

For the Respondent/s : Mr. Ranjay Kumar Singh, SC to SC-16

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

10 12-10-2015

Heard the parties.

By the impugned order/recommendation dated 08.12.2011, as contained in Annexure-3, passed jointly by the respondent S.D.O., Danapur as also the D.C.L.R., Danapur, a recommendation has been made to the Additional Collector, Patna for taking appropriate steps and/or passing an appropriate order under Section 4(h) of The Bihar Land Reforms Act, 1950 (in short 'Act, 1950') with respect to a plot of land bearing khata no.1814, kheshra no.5720 area 26 decimals (in short 'lands in question').

Learned senior counsel appearing on behalf of the petitioner submits that the lands in question was acquired under the provisions of The Land Acquisition Act, 1894 (in short 'Act, 1894') and an award was prepared. However, copy of the award, so prepared, has not been brought on record. He is also not in a position to give the date of the said award. Despite repeated query,

learned senior counsel is not in a position to show any valid documents in support of the claim of right and title of the petitioner over the lands in question.

This Court is of the considered opinion that, if an award was prepared with respect to the lands in question, besides others, under the provisions of the Act, 1894 and if the possession was taken in terms of Section 16 of the Act, 1894, then the same vested in the State free from all encumbrances and whatever right of raiyat was with respect to the lands in question that has extinguished in view of the vesting of the lands in question in the State. Furthermore, by the impugned order merely a recommendation has been made and final order is yet to be passed by the Additional Collector, Patna. The petitioner has not been able to show any material that the final order by the Additional Collector, Patna or by any other competent authority under the provisions of the Act, 1950 has been passed.

That being the factual position, the issue raised on behalf of the petitioner in the present writ petition is completely misconceived, as the final order is yet to be passed by the competent authority under the provisions of the Act, 1950. The writ petition is pre-mature and is, accordingly, dismissed.

However, the petitioner shall be at liberty to avail of all the alternative remedy under the provisions of the Section 4(h) of the Act, 1950, if any final order is passed either by the Additional Collector, Patna or any other competent authority, as the final order is appealable under the provisions of the Act, 1950 itself.

Arvind/-

(Birendra Prasad Verma, J)

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