

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21766 of 2013

With
Interlocutory Application No. 8911 of 2015

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Surendra Prasad Sharma S/O Late Srinarayan Singh Resident Of
Village/P.O./P.S.- Bakhtiyarpur, Distt.- Patna

.... Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Revenue & Lands Reforms Department, Bihar, Patna
2. The Competent Authority-Cum-District Land Acquisition Officer, Patna
3. The Anchal Adhikari, Bakhtiyarpur
4. Shashi Kumar, Son Of Late Rajendra Prasad Singh, Resident Of Village/P.O./P.S.- Bakhtiyarpur, Distt.- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sidhendra Narayan Singh, Adv.

For the Respondent/s : Mrs. Nutan Sharma, AC to GA 9

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 21-12-2015

Re.: Interlocutory Application No. 8911 of 2015

Heard the parties.

The present Interlocutory Application has been filed on behalf of the heirs and legal representatives of the sole petitioner - Surendra Prasad Sharma stating therein that during the pendency of the present writ petition sole petitioner died on 17.09.2015 leaving behind him the present applicants, being his widow and son, as his heirs and legal representatives. They have already entered appearance through their lawyer by filing their duly executed Vakalatnama.

Learned counsel appearing on behalf of the respondent State has not raised any objection to the prayer for substitution made in the present interlocutory application.

In the facts and circumstances, the prayer for substitution is allowed. Let the name of the deceased sole petitioner Surendra Prasad Sharma be expunged from the array of

the parties and be substituted by the present applicants, who are his heirs and legal representatives.

The present Interlocutory Application stands finally disposed of with the observations and directions made above.

Re.: Civil Writ Jurisdiction Case No. 8911 of 2015

The petitioner has filed the present writ petition assailing the validity and correctness of notice / communication dated 01.10.2013 issued by the competent authority –cum- District Land Acquisition Officer, Patna, as contained in Annexure ‘8’, whereby the dispute regarding apportionment of compensation amount determined in L.A. Case No. 36 of 2011-12 has been referred to the learned Special Land Acquisition Judge, Patna, in exercise of his powers under Section 3H(4) of The National Highways Act, 1956. The reference has been made by the competent authority in view of claims raised by the respondent No. 4 for payment of award amount with respect of the lands in question acquired under the provisions of The National Highways Act, 1956.

The learned counsel appearing on behalf of the petitioner has argued the matter at some length and submitted that in view of the different orders passed in mutation proceeding and other documents, the respondent No. 4 has no right and title over the lands in question. Therefore, reference made by the competent authority is not sustainable.

This Court is afraid, the submissions made on behalf of the petitioner are completely misconceived and have to be rejected. Admittedly, the respondent No. 4 is also claiming his right, title and possession over the lands in question, which have been acquired under the provisions of The National Highways

Act, 1956. Whether the petitioner is entitled for entire award amount and/or the respondent No. 4 is also entitled to have apportionment of the award amount is required to be decided by the learned Special Land Acquisition Judge, Patna, by recording the evidence produced by the parties. The claim of the petitioner and that of respondent No. 4 are based on disputed question of facts, which can be conclusively decided on the basis of the evidence produced before the learned Special Land Acquisition Judge, Patna, and that cannot be decided in the present proceeding filed under Article 226 of the Constitution of India.

In above view of the matter, the present writ petition is dismissed, but a liberty is granted to the petitioner to raise all the issues of facts and law, which may be available to him with respect to the lands in question before the learned Special Land Acquisition Judge, Patna,

It goes without saying that if the petitioner appears before the learned Special Land Acquisition Judge, Patna, then efforts shall be made to dispose of the aforesaid proceeding at an early date after giving an opportunity of hearing to all concerned.

(Birendra Prasad Verma, J)

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