

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.347 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 774 of 2014
Along with
Interlocutory Application No. 1643 of 2015

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1. Most. Chandrawati Devi, Wife of Late Anandi Prasad
 2. Devnandan Prasad, son of Late Pyare Mohto
 3. Bhagwat Prasad, Son of Late Amrit Mahto
 4. Jenardan Prasad, Son of Late Kailash Prasad
 5. Pankaj Kumar, son of Late Babuchand Mahto @ Babuchand Prasad
 6. Ranvir Singh, Son of Bechan Prasad
 7. Jagdish Prasad, Son of Shankar Mahto
 8. Shyam Prasad, son of Gajadhar Mahto
 9. Mahendra Prasad Singh, Son of Late Harihar Prasad
 10. Pramod Prasad son of Sri Sita Ram Prasad
 11. Suresh Prasad, Son of Late Dukhi Mahto
- All resident of Village - Balwapur , P.O. + P.S. - Asthawan , District- Nalanda, Bihar.

.... Appellant/s

Versus

1. The State of Bihar through it's chief Secretary Bihar.
2. The Union of India through Director National Project Construction Corporation Ltd. New Delhi
3. The Project Manager NPCC Ltd, Nalanda
4. The Principal Secretary, Road Construction Department Bihar.
5. The P.S. Rural Works Department , Bihar
6. The District Magistrate Nalanda
7. The Officer Incharge, District- Development Nalanda
8. The Land Acquisition Officer , Nalanda
9. The Sub-Divisional Officer , Biharsharif, Nalanda
10. Most. Urmila Devi, Wife of Sidheshwar Prasad, at Balwapur, P.S. - Asthawan , District - Nalanda.
11. The Circle Officer, Asthawan , Nalanda
12. The Block Development Officer, Asthawan , Nalanda.
13. The Executive Engineer Bhola Prasad, Rural Works Department, Work Division, Biharsharife, Nalanda

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bhola Prasad No.-1, Advocate.

For the Respondent/s : Mr. Tej Pratap Singh, AC to GP 17

For the NPCC : Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)
Date: 11-07-2016

Re.: Interlocutory Application No. 1643 of 2015

The application is for condonation of delay of 26 days in filing of the appeal.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, the delay of 26 days in filing of the appeal is condoned.

Interlocutory Application stands disposed off.

Re.: Letters Patent Appeal No. 347 of 2015

The present Letters Patent Appeal is directed against an order passed by the learned single Bench of this Court on 22nd October, 2014 whereby the writ application filed by the appellants against the construction of road from Soiba Pool to Masian Path remained unsuccessful.

The stand of the appellants is that a road is being constructed under the Pradhan Mantri Gramin Sadak Yojana from Soiba Pool to Masian without any notice and compensation. From the counter affidavit filed on behalf of the respondent nos. 3, 6, 9, 11 and 12, it is evident that there was old road, namely, Soiba Pool to Masian Path situated under Mauza-Malti. Since, the road was damaged, it was repaired under the Pradhan Mantri Gramin Sadak Yojana. It is also pointed out that the grievance of the appellants that their land stands utilized for the construction of the road, were inquired into. An inquiry report dated 30th March 2013 was submitted

reporting that no villagers including the appellants appeared on the worksite for raising their grievances.

We have heard learned counsel for the parties and find no merit in the present appeal. The appellants have made out a case, as if, the road is being carved out for the first time without giving notice to them and without payment of compensation. But the reading of the counter affidavit, filed on behalf of the State, shows that the road was in existence though in damaged condition, which was repaired under the Pradhan Mantri Gramin Sadak Yojana. The fact that road was in existence finds mention in the counter affidavit for which no rejoinder was filed.

Keeping in view the categorical stand of the respondents that there was an existing road, which is being repaired under the Central Government Fund Scheme, therefore, it cannot be said that the road is being constructed for the first time without acquisition of the same and without payment of compensation.

In view of the aforesaid, we do not find any merit in the present Letters Patent Appeal. It is, accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

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