

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1314 of 2011

With
Interlocutory Application No.2488 of 2013

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Raj Kishore Sah S/O Late Satyanarayan Sah, R/O Village Akhta, P.S.
Bairgania, District Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Sitamarhi.
3. The Additional Collector, Sitamarhi.
4. The Rehabilitation Officer, Sitamarhi.
5. The Circle Officer, Bairgania, Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Pathak
Mr. Nagendra Upadhyia

For the Respondent/s : Mr. Ajay Kumar Sharma, AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGEMENT

7 22-06-2016

Re.: Interlocutory Application No. 2488 of 2013

Heard the parties.

The instant interlocutory application has been filed purportedly on behalf of the widow of the sole petitioner- Raj Kishore Sah stating therein that during the pendency of the main writ petition sole petitioner died on 03.01.2013 leaving behind his widow namely Lalita Devi as his heir and legal representative, fully detailed in paragraph-8 of the instant interlocutory application.

The learned counsel appearing on behalf of the petitioner submits that the proposed heir of the deceased sole petitioner has entered appearance through her learned counsel by filing her duly executed Vakalatnama and she is major. He further submits that in view of the nature of claims raised in the main writ petition, the applicant may be substituted and she may be permitted to prosecute this litigation.

The learned AC to PAAG appearing on behalf of the respondents does not raise any objection to the prayer for substitution made in the present interlocutory application.

In above view of the matter, the prayer for substitution is allowed. Let the name of the deceased sole writ petitioner be expunged from the array of the parties of the main writ petition and he be substituted by his widow, being his heir and legal representative, fully detailed in paragraph-8 of the instant interlocutory application.

The instant Interlocutory Application thus stands finally disposed of.

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On the request of the learned counsel appearing on behalf of the parties, main writ petition has been taken up for consideration on merits.

The original writ petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondents for payment of compensation to him for acquisition of parcels of land bearing old survey plot no. 4120, corresponding to new survey plot No. 9920 and 10810, measuring an area of 1.56 acres on the ground that the lands in question was settled in favour of his grand father through an auction sale.

From the materials available on record, it appears that a land acquisition proceeding was started by the competent authority for acquisition of several parcels of lands including the plots in question for rehabilitation of displaced persons and accordingly, award was prepared, but treating the lands in question belonging to the State of Bihar. Admittedly, when the award was prepared for the lands in question under the provisions of the Land

Acquisition Act, 1894, no objections/ claims were raised on behalf of the petitioner that the lands in question belongs to him.

The learned counsel appearing on behalf of the petitioner has submitted that since the lands in question was belonging to the petitioner, award ought to have been prepared in his name and, therefore, appropriate direction may be issued to the respondents for payment of compensation amount to him. However, he has fairly conceded that in the recent revisional survey khatian, the lands in question was recorded in the name of the State of Bihar. Admittedly, entry made in the recent revenue records with respect to the lands in question was never challenged by the petitioner before any competent authority/ court and that has attained its finality. However, the learned counsel appearing on behalf of the petitioner has further submitted that the petitioner having come to know that the award has been prepared in the name of the State of Bihar with respect to the lands in question, a legal notice under Section 80 C.P.C. was served upon the State of Bihar through the District Collector, Sitamarhi on 16.10.2001, but no action was taken for redressal of valid grievances of the petitioner and, therefore, the petitioner has filed the present writ petition.

The matter has been contested by the respondents by filing a counter-affidavit on behalf of the respondent no.1. In the aforesaid counter-affidavit it has been asserted that the lands in question has been recorded as "Gairmajarua- Aam" land in the revenue records and the State of Bihar is its owner; therefore, the petitioner cannot legally claim compensation for acquisition of the lands in question. In paragraph-8 of the aforesaid counter-affidavit it has further been stated that the claim raised on behalf of the

petitioner for payment of compensation was rejected by the learned Special Land Acquisition Officer, Gandak Project, Muzaffarpur way back on 2.5.2003 (Annexure-A).

After having heard the parties and on consideration of the materials available on record, following conclusions can easily be deduced; firstly the entire claim of the petitioner for payment of compensation for acquisition of the lands in question is based on disputed question of fact; secondly, the land acquisition proceeding concluded long long ago i.e. prior to 2001, though exact date of acquisition and preparation of award has not been mentioned either by the writ petitioner or by the respondents. The petitioner had not raised any objection laying his claims over the lands in question, yet he is trying to get the entire proceeding re-opened after more than a decade, which cannot be countenanced. Thirdly, the petitioner claims to have served a legal notice dated 16.10.2001 under Section 80 C.P.C. on the basis of which his claim was rejected way back by order/ communication dated 2.5.2003, which has been brought on record as Annexure-A to the counter-affidavit, yet the petitioner did not approach any other authority or the court for grant of appropriate relief earlier, but after a long delay of more than 8 years, the present writ petition was filed on 20.01.2011. Hence, the present writ petitioner suffers from delay and laches on the part of the petitioner.

For the reasons recorded above, this Court is of the opinion that the reliefs sought for by the petitioner in the present writ petition cannot be granted. The writ petition is devoid of merits, as the claims raised on behalf of the petitioner are based on disputed question of facts. Hence, it is dismissed, but there shall be no order as to costs.

(Birendra Prasad Verma, J)

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