

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15300 of 2011

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Jatayu, Sharma S/O Late Ganesh Sharma, R/O Village - Pacmo, P.S.- Nabinagar,
District - Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Aurangabad
3. The Land Acquisition Officer, Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha, Sr. Adv.
Mr. Bhola Kumar, Adv.

For the Respondent/s : Mr. Ajay Kumar Sharma, AC to PAAG-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 09-11-2016

Heard the parties.

The petitioner, claiming to be the purchaser of the lands in question from one Most. Adhkaliya Kuer @ Devi through a registered sale deed, as contained in Annexure-3 to the writ petition, has filed the present writ petition seeking a direction to the respondent authorities for payment of award amount prepared by the respondent District Land Acquisition Officer, Aurangabad under the provisions of The Land Acquisition Act, 1894 (in short 'Act. 1894') and for which notice under Section 12(2) of the Act, 1894 was issued to the petitioner on 22.6.2009, as contained in Annexure-1 to the writ petition.

The learned Senior Counsel appearing on behalf of the petitioner submits that since the petitioner is the rightful owner of the lands in question and since award has been prepared in his name with respect to the lands in question, therefore, an appropriate direction may be issued to the respondent authorities for payment of award

amount with interest.

The matter has been contested by the respondents by filing a counter- affidavit on behalf of the respondent nos. 2 and 3. The learned A.C. to PAAG-1, appearing on behalf of the respondents, by referring to the averments made in the aforesaid counter-affidavit, submits that, in fact, a dispute is going-on between the vendor of the petitioner namely Adhkaliya Kuer and her daughter Kamla Devi. It is contended that the aforesaid Kamla Devi has already filed Partition Suit No. 9 of 2001 claiming her right and title over the lands in question and the aforesaid partition suit is still pending before the learned Sub-Judge-I, Aurangabad. It is next contended that during the pendency of the aforesaid partition suit, the petitioner purchased the lands in question from defendant no.1- Adhkaliya Kuer. It is highlighted by the learned State counsel that the aforesaid Kamla Devi had approached this Court in C.W.J.C. No. 4139 of 2010, which was finally disposed of by order dated 10.3.2010 with a direction to the respondent District Collector, Aurangabad to consider her case for making reference to the civil court under Section 30 of the Act, 1894. It is also contended that in the light of the aforesaid order, the matter is still sub-judice before the learned civil court.

Though, a copy of the aforesaid counter-affidavit was served upon the learned counsel appearing on behalf of the petitioner way back on 6.1.2016, but no rejoinder affidavit has been filed on behalf of the petitioner controverting the averments made in the aforesaid counter-affidavit filed on behalf of the respondent nos. 2 and 3.

In the aforesaid factual matrices, the present writ petition is disposed of with a liberty to the petitioner to approach the respondent District Collector, Aurangabad for passing an appropriate order in

terms of Section 30 of the Act, 1894, if the matter has not been referred to the civil court in the light of the order dated 11.3.2010 passed in C.W.J.C. No.4139 of 2010. However, if the matter has already been referred to the civil court in compliance of the order dated 11.3.2010, then the petitioner shall be at liberty to intervene in that matter and shall be permitted to raise all the issues of facts and law, which may be available to him with respect to the lands in question. The reference made by the District Collector, Aurangabad shall be answered, if still pending, only after giving an opportunity of hearing to the petitioner as also aforesaid Kamla Devi.

The present writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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