

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No 1961 of 2012

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1. The State Of Bihar Through The Principal Secretary, Department Of Mines & Geology, Bihar, Patna.
 2. The Mines Commissioner, Bihar, Patna.
 3. District Collector, Nalanda.
 4. Assistant Director, Mines and Geology, District Mining Office, Nalanda.

.... Appellant/s

Versus

Indra Bhushan Kumar S/O Sri Rajendra Prasad Resident Of Mohalla- Khasganj,
Post Office & Police Station- Sohsarai, District- Nalanda.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Devendra Kumar Sinha, Sr Advocate with
Mr Rajendra Prasad, Special PP Mines

For the Respondent/s : Mr Subodh Kumar Sinha, Advocate

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 28-06-2016

Heard Shri D K Sinha, learned Senior Advocate for the
Mines Department and Shri Subodh Kumar Sinha for the writ
petitioner-respondent.

2 The facts are not in dispute.

3 A settlement of Balughat was made by the State with
the writ petitioner-respondent. As per the terms of settlement, the writ
petitioner-respondent was required to deposit the entire one year's
settlement amount of Rs 1,77,25,000/- at the time of receiving the



settlement. This amount petitioner paid. But for administrative reasons, not attributable to the petitioner, the settlement order was issued much later. The effect was that instead of being a settlement for one full year, the period got substantially reduced. Upon representation being filed for proportionate refund of the settlement amount paid in advance, Government agreed and ordered refund of Rs 32,53,654/- but instead of making this refund, the Government ordered that it could be adjusted in future liability. Writ petitioner-respondent's contention before the authorities, which was not acceded to, was that being substantial amount of money, which was due to the petitioner and withheld by the State, he must be compensated by interest at the same rate which the Government charges for delayed payments. The Writ Court, considering the matter holding that the Writ Court was a Court of equity as well, allowed the writ petition and directed the Government to pay interest on the said amount which was withheld and later sought to be adjusted in future liability instead of refunding the same.

4 In our view, the order requires no interference for two reasons. Firstly, the Government utilized the said money, which was substantial for its own use for a long period, and secondly it deprived the petitioner for use of his own money. Thus, the order to pay interest, as ordered by the learned Single Judge, needs no interference. It is just, fair and proper.

5 The second issue was that, as required by the

settlement order, the settlement being for enjoying rights arising from an immovable property, the settlement had to be registered. For that, the Government quantified and demanded Rs 5,31,750/- as registration fee/stamp duty. Writ petitioner-respondent paid the said amount but when ultimately no registration was done, the period of settlement being less than a year, after much delay, the said amount was again adjusted against future liability also. It was not refunded but retained by the Government.

6 In our view, the learned Single Judge was correct in directing the State to pay interest on the same amount for the reasons, as discussed above.

7 Government, being bound by Article 14 of the Constitution, cannot take the view that for failure to pay Government dues, a person would be liable to pay interest but where the Government retains money of citizens beyond the period what it is authorized to, it is not liable to pay interest. That action would be confiscatory. It would amount to unjust enrichment on part of the State which cannot be permitted.

8 For the reasons aforesaid, we do not find any merit in this appeal. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-AFR

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