

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18683 of 2013

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Bimal Rai Son of Late Laxman Rai, Resident of Village- Dayalpur, P.S. Rajapakar,
Dist- Vaishali

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Vaishali At Hazipur
2. The Additional Collector, Vaishali At Hazipur
3. The Sub Divisional Officer, Sadar, Hazipur
4. The District Sub Registrar, Vaishali At Hazipur
5. The District Land Acquisition Officer, Vaishali At Hazipur
6. The Circle Officer, Vaishali At Hazipur
7. The Principal B.M.D. College, Dayalpur (Vaishali)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shankar Kumar
For the Respondent No.1 to 6: Mr. Krishna Chandra, AC to AG
For the Respondent No. 7 : Mr. Sandeep Kumar

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 01-04-2016

Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondents to make payment of compensation to the petitioner with respect to the land bearing khata no. 47 khesra 3817 area 5 decimals situate at village- Dayalpur P.S. Rajapakar, district- Vaishali (hereinafter referred to as 'the land in question'), which has been acquired for construction of the building of B.M.D. College, Dayalpur, Vaishali. The petitioner has further prayed that the respondents may be directed to make payment of a sum of Rs. 3,75,000/- to the petitioner for acquisition of the lands in question, which is residential in nature.

The learned counsel appearing on behalf of the petitioner submits that the petitioner had no knowledge and information about acquisition of the lands in question and he came to know about acquisition only when respondent no. 7 started constructing boundary wall. He also submits that the petitioner is the grand son of Ram

Chandra Rai, the raiyat of the lands in question.

The matter has been contested by all the respondents, but counter-affidavit had been filed on behalf of the respondents no. 1 to 6 only. The learned AC to AG appearing on behalf of the aforesaid respondents, by referring to the averments made in the aforesaid counter affidavit, submits that, in fact, for acquisition of the lands in question, besides other plots of lands, a notification under Section 4 of The Land Acquisition Act, 1894 (In short 'the Act, 1894') was issued on 03.12.1987 (Annexure-A to the counter-affidavit). It has further been submitted by him that no objection was filed under Section 5A of the Act, 1894; therefore, a declaration was made under Section 6 of the Act, 1894 for acquisition of the land in question on 15.12.1988 (Annexure-A/1). A copy of the aforesaid declaration was received by one person on behalf of the original raiyats viz Ayodhya Rai and Ram Chandra Rai, which is apparent from Annexure-B to the counter-affidavit. Thereafter, final award under Section 11 of the Act, 1894 was prepared in the aforesaid Land Acquisition Case No. 3 of 1988-1989 on 13.12.1990. A notice under Section 12(2) of the Act, 1894 was issued in the name of aforesaid Ayodhya Rai and Ram Chandra Rai, grand father of the petitioner, which was received by Bachcha Lal Rai, the petitioner of C.W.J.C. No. 18493 of 2013 on 14.1.1992, yet no step was taken by the raiyats or their heirs either for challenging the order of the land acquisition case or for seeking reference of the matter under Section 18 of the Act, 1894. By referring to Annexure-E, it is contended by the learned State counsel that possession over the lands in question was given to the College way back on 12.02.1992.

From the materials available on record, it is apparent that for acquiring the land in question the land acquisition proceeding was started in the year 1987 and after following the procedure, a final award was prepared on 13.12.1990, but despite the knowledge and information to the petitioner about the award in question, it was not

challenged by him for more than two decades. However, after long time, i.e. after about 23 years, he has filed the present writ petition raising a claim that he had no knowledge and information about the aforesaid award; therefore, a direction may be issued to the respondents to make payment of higher amount of compensation to him. Plea raised on behalf of the petitioner does not appear to be correct and believable, and it cannot be accepted in view of the public documents annexed with the counter-affidavit.

In that view of the matter, this Court is of the opinion that the writ petition suffers from delay and laches. The award prepared in the year 1990 and the possession given to the respondent no. 7 in the year 1992 cannot be subject matter of judicial scrutiny in the present proceeding filed under Article 226 of the Constitution of India after delay of about 23 years. The writ petition is devoid of merit. It is, accordingly, dismissed.

However, it is clarified that if the award amount has not been received either by the petitioner or his grand father and the petitioner appears before the respondent District Land Acquisition Officer, then the award amount must be paid to him without any unnecessary delay, if there is no other claimant.

The writ petition stands dismissed with the observation and directions made above.

(Birendra Prasad Verma, J)

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