

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.911 of 2016

IN
Civil Writ Jurisdiction Case No. 3921 of 2013

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1. Tusta Devi Wife of Late Mahendra Kumar Sharma Resident of Village - Kinjar,
Police Station - Kinjar, District - Arwal.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Government of Bihar, Patna.
2. The Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The District Collector, Arwal District.
4. The Bihar State Awas Board through its Secretary, Mangles Road, Patna.
5. The Principal Secretary, Department of Urban Development, Government of Bihar, Patna.
6. The Sainik Kalyan Nideshalya through its Secretary/Officer Bearer, Department of Home, Government of Bihar, Patna.
7. The Director General of Resettlement, Ministry of Defense, Union of India.

.... Respondent/s- Opp.Parties.

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Appearance :

For the Petitioner : Mr. Abhay Kumar Thakur
For the State : Mr. Anshuman Singh AC to PAAG-1

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 14-09-2016

Heard the learned counsel for the petitioner and AC to
PAAG-1 for the State.

The application seeks restoration of CWJC No. 3921 of
2013 which stood dismissed for non-prosecution vide order dated
18.1.2016. The operative part whereof reads as under:-

“Prima facie, it appears the writ
application suffers from inordinate delay
and latches. However, considering the fact
that no one has appeared on behalf of the
petitioner, the application is dismissed for
want of prosecution.”

On hearing the counsel for the petitioner and the State, said application is allowed. CWJC No. 3921 of 2013 is restored to its original file.

With the consent of the parties, the writ petition has been considered on merit.

The petitioner is widow of Army personnel who was serving as Signelman. While in service, he was travelling to his home on a bus. It is stated that the bus was intercepted by a slew of people for the purpose of loot. The petitioner put up obstacle and resisted the dacoits. In course whereof, he received injuries at the hands of the dacoits and died on 27.01.1984. It was an act of gallantry. The husband of the petitioner was awarded 'Saurya Chakra'. According to the circular of the Revenue and Land Reforms Department, any such officer who was killed displaying acts of gallantry was entitled to settlement of Government waste land. In spite of requests made in this regard and few communications issued for such consideration the Government land was not settled with the petitioner. This prompted her to file a writ petition in this Court vide CWJC No. 15751 of 2004 for a direction upon the respondents to settle suitable land in terms of the circular of the Government. The writ petition was disposed of on 30.10.2007 (Annexure-16) wherein the Court having noticed that 1.69 acres of the Government land was now settled with the widow

(petitioner) the said proceeding was disposed of in the following terms:-

“It is now agreed between the parties that settlement having been finally made, the petitioner has been put in possession of the said 1.69 acres of land. That being so, no further useful purpose would be served by keeping the writ petition pending as the relief sought for has already been granted.”

Now six years thereafter, the present writ petition is filed for a direction upon the respondents to make payment of ex-gratia amount in the sum of Rs. 10,00,000/-(Ten lacs) as well as to settle 05 acres of agricultural land in the rural area and 12 and ½ decimals of homestead land in the light of the said policy decision of the State Government. The counsel for the petitioner has not shown the policy decision of the Government providing for such grant of compensation. Annexure-5 is the Circular of the Revenue and Land Reforms Department which entitles such military personnel or their widows to have settled the Government land if the military personnel died in discharge of the duty or while performing some acts of gallantry. Precisely for this purpose the first writ petition was filed by the petitioner in which no other claim was raised. The Government responded to the claim of the petitioner and settled 1.69 acres of Government waste land. Satisfied with such settlement of the land, the Court disposed of the said proceeding.

I have already noticed that the petitioner initially made a claim for settlement of Government land only based on the circulatory provisions of the State. The respondent-State settled 1.69 acres of land with the petitioner which satisfied her claim and the writ petition was disposed of. If no claim for ex-gratia payment or settlement of some more land with her was made then how she can now, be permitted to raise such a claim against the State respondents. Such claim(s) would be barred by the principle of *res judicata*. Apart from above, the writ application appears to be barred by principle of delay/laches and estoppel as well. The Court does not find any merit in the writ petition.

It is, accordingly, dismissed.

No cost(s).

(Kishore Kumar Mandal, J)

Shyam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.09.2016
Transmission Date	N/A