

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3874 of 2015

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Laxmi Singh & Ors

.... Petitioner/s

Versus

The State of Bihar & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subash Kumar

For the Respondent/s : Mr. Sc24 S.K.Mandal

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 29-03-2016

Heard Mr. Subhash Kumar, learned counsel

appearing for the petitioners and learned S.C.-24 appearing on behalf of the respondent-State.

2. The learned executing court i.e. Sub-Judge-IIIrd, Sasaram Rohtas by order dated 30.04.2014 refused to restore Execution Case No. 13 of 1993 by dismissing the Miscellaneous Case No. 33 of 2011, which was filed under Section 151 C.P.C. for restoration of the execution case.

3. It is admitted fact that the lands of the petitioners have already been acquired by the State of Bihar-respondent and for decretal award, cheque has already been deposited by the State-respondent in the executing court in Execution Case No. 13 of 1993. However, it appears that the said cheque being Cheque No.022186 dated 06.11.2013 was for Rs. 50,6,765/- This cheque has to be handed over to the petitioners as the petitioners' land has been acquired by the State authorities and there is no dispute

between the parties.

4. In view of the above facts on technical ground only, the petitioners cannot be denied their legitimate claim and the state authorities are also not denying the claim of the petitioners and in fact, the cheque has been deposited. Now, therefore, only the cheque is to be handed over to the petitioners.

5. In view of the above facts and circumstances of the case if the impugned order is allowed to stand it will not only occasion failure justice but the petitioners will be deprived of their legitimate claim and petitioners will be greatly prejudice. Accordingly, the impugned order is set aside and the execution case is restored to its original file. The cheque aforesaid has become now invalid as more than six months have expired, therefore, the learned S.C. 24 submitted that the cheque may be renewed within a period of two months from the date of receipt of a copy of this order and on re-filing of the cheque, the same may be handed over to the petitioners by the executing court. According to his submission now there is no dispute. Thus, this writ application is allowed. The impugned order is set aside and the Execution Case No. 13 of 1993 is restored to its original file.

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(Mungeshwar Sahoo, J.)