

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.355 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 5106 of 2014**

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1. Nisar Ahmad, son of Late Abdul Hakim,
2. Washi Ahmad
3. Samsad Alam
Both sons of Late Sagir,
All resident of Village: Mohalla: Ward No. 11, P.S. and District: Madhepura.

.... Appellants

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms Department,
Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Madhepura.
3. The Land Acquisition Officer, Madhepura, District: Madhepura.
4. The Sub. Divisional Officer, Madhepura, District: Madhepura.
5. The Circle Officer, Madhepura, District: Madhepura.

.... Respondents

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Appearance :

For the Appellants : Mr. Pankaj Kumar Jha, Advocate.

For the Respondents : Mr. Anjani Kumar, A.A.G. 6

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 28-06-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 15th of September, 2014 in C.W.J.C. No. 5106 of 2014, whereby the writ application filed by the appellants for quashing of the order dated 20th of December, 2013 passed by the Collector, Madhepura for release of land acquired for the public purpose was dismissed.

2. The land measuring 6.75 acres including the land of



the Appellants was acquired for the public purposes vide Notification No. 116A/1960-61. The compensation for the said land was disbursed to the predecessor-in-interest of the appellants on 23rd of June, 1963. Thereafter, the land-owner sought reference against the inadequate amount of compensation which was allowed on 14th of November, 1973. The amount of enhanced compensation was disbursed on 15th of May, 1976.

3. Admittedly, the land of the appellants acquired for the public purpose has not been utilized for the stated public purpose as the bridge was constructed on another land. The appellants filed an application before the Settlement Officer for correction of the revenue records which was allowed on 26th of July, 2002, whereby the name of the appellants was recorded as the owner. Subsequently, the appellants filed an application before the Land Acquisition Collector and also the Collector, Madhepura under Section 15A of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”). The application under Section 15A of the Act was declined by the Collector on 20th of December, 2013, *inter alia*, holding that after receipt of the entire compensation of the acquired land, the land-owners have no right, title or interest over the land-in-question. After acquisition, the land vests with the State and that the correction of the revenue records under Section 106 of the Bihar Tenancy Act was



obtained without disclosing the acquisition of the land. Thus, it was found that the acquired land vests with the State Government and that the order of correction of the revenue records is inconsequential. It was also found that the acquired land is now adjoining National Highway and that the land may be required for expansion of the National Highway. Consequently, the land cannot be released from acquisition.

4. Learned counsel for the appellants contends that in terms of Section 15A of the Land Acquisition Act, the Collector has the power to order for release of the land.

5. We do not find any merit in the said argument. Under Section 15A of the Act, the appropriate Government can call for the record of any proceedings for the purposes of satisfying itself as to the legality or propriety of any finding or order passed but such power can be exercised only before the Award is made by the Collector. In the present case, though the date of Award of the Collector has not come on record but the payment in pursuance of the Award of acquisition was made to the predecessor of the appellants on 23rd of June, 1963. The predecessor of the appellants filed Reference bearing Land Acquisition Case No. 129 of 1964 which was allowed and additional compensation paid on 27th of May, 1976. Therefore, the power under Section 15A could not be exercised firstly by the

Collector and secondly even by the appropriate Government as the Award stands announced in early 60s.

6. The alternative argument of the learned counsel for the appellants is that in terms of Section 48 of the Act, the land is deemed to have been withdrawn from the acquisition.

7. Even the said argument is not tenable. Section 48 empowers the State Government to withdraw acquisition of land of which possession has not been taken. Though, the stand of the appellants is that they are in possession of the land but the fact remains that not only compensation was disbursed to the appellants but even the appellants have sought enhanced compensation. The revenue records show Government of Bihar as owner of the land which was sought to be corrected from the Settlement Officer by not disclosing the fact of acquisition. Once the lands stand acquired, the possession will follow the ownership. Therefore, mere assertion of the appellants that they are in possession of the land is of no consequence at this stage after more than 50 years of acquisition. Still further, the learned Single Bench has rightly found that the revenue records are not the documents of title. Therefore, even if the appellants have been able to obtain correction of the revenue records in their favour, that will not prove their ownership inasmuch as it has been found as a matter of fact that the land stands acquired and compensation

disbursed to the appellants.

8. In view thereof, we do not find any merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, J)

I agree.
Ahsanuddin Amanullah, J

(Ahsanuddin Amanullah, J)

P.K.P.
N.A.F.R.

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