

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22781 of 2012

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Basudeo Singh son of Late Charitar Singh, resident of Village - Nararikhujd
Tola - Bani Bigha, Post : - Sudrikarma, P.S. - Baroon, District : -
Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Aurangabad
3. The Special Land Acquisition Officer, Aurangabad
4. The Circle Officer, Circle - Baroon, District : - Aurangabad
5. Prabal Singh son of Late Deo Nandan Singh, resident of Village : -
Kudwa, Police Station - Baroon, District : - Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramchandra Singh, Advocate
Mr.Jitendra Kumar Singh, Advocate
Mr.Lal Bahadur Singh, Advocate
For the Respondent Nos. 1 to 4 : Mr. Krishna Chandra, AC to AG
For the Respondent No.5 : Ms. Vagisha Pragya Vacaknavi, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 18-01-2016 Heard the parties.

2. The petitioner is aggrieved by the order dated 16.11.2012 passed in Land Acquisition Appeal Case No. 73 of 2012 by the respondent District Collector, Aurangabad, as contained in Annexure-3 to the writ petition, whereby a petition filed on behalf of the petitioner and his three brothers for making reference to the competent civil court in exercise of powers under the provisions of The Land Acquisition Act, 1894 has been rejected on merits as also on the ground of limitation.

3. Learned counsel appearing on behalf of the petitioner, the learned AC to learned AG appearing on behalf of the respondent nos. 1 to 4 as also the learned counsel appearing on behalf of the respondent no.5 were heard at great length on 13.01.2016 and argument was concluded from both sides.

However, in view of plea taken by the learned counsel appearing on behalf of the respondent no.5 that, for the identical relief, the petitioner has filed Title Suit No. 203 of 2013 before the competent civil court, she was directed to produce a copy of the plaint of the aforesaid title suit and the matter was fixed on 14.01.2016 under the heading "For Judgment".

4. On 14.01.2016 the matter was listed and the Court passed the order as under:-

"Though the matter has been listed under the heading "For Judgment", but in compliance of the order dated 13.01.2016, the learned counsel appearing on behalf of the respondent no.5 has filed a supplementary affidavit bringing on record a copy of the plaint of Title Suit No. 203 of 2013 filed by the writ petitioner and his other three brothers, which is taken on the record.

Learned counsel appearing on behalf of the respondent no.5 has pointed out that the impugned order dated 16.11.2012 (Annexure-3) passed by the District Collector, Aurangabad is also the subject matter of consideration in the aforesaid pending title suit, and the plea of having no information to the petitioner about preparation of award taken in the present writ petition stands diluted/contradicted by the averments made in the aforesaid plaint. Therefore, according to her, on account of concealment of material facts, the present writ petition, as a whole, is liable to be dismissed.

However, on the request of the learned counsel appearing on behalf of the petitioner, the matter is simply passed over for the day".

5. Now, the matter has been listed today under heading "For Judgment". Learned counsel appearing on behalf of the petitioner has not disputed the factum of filing of title suit by the petitioner and his three brothers before the learned Sub-Judge I, Aurangabad in which respondent no.5 is the defendant no.1 and

State of Bihar and its functionaries are other defendants. However, he contends that the aforesaid title suit filed by the petitioner is not maintainable before the Civil Court.

6. It is well settled that for one and common relief, the litigants cannot be permitted to have two parallel proceedings. Indisputably, the petitioner and his three brothers have filed Title Suit No. 203 of 2013 and a copy of the plaint has been brought on record as Annexure-A to the supplementary counter affidavit filed on behalf of the respondent no.5, wherein the validity and correctness of the impugned order dated 16.11.2012 is also under consideration. In the present writ petition, the claims raised on behalf of the petitioner with respect to the lands in question are based on several disputed question of facts which can be appropriately gone into by the civil court of competent jurisdiction by recording evidence adduced by the parties and cannot be effectively decided in the present proceeding filed under Article 226 of the Constitution of India.

7. In above view of the matter, without going into the merits of the claims raised on behalf of the parties, the present writ petition is dismissed with a liberty to the parties to raise all the issues of facts and law, which may be available to them, with respect to the lands in question in the aforesaid pending title suit 203 of 2013. However, there shall be no order as to costs.

(Birendra Prasad Verma, J)

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