

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1620 of 2016

IN

Civil Writ Jurisdiction Case No. 15301 of 2013

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Dilip Kumar Gupta @ Dilip Kumar Son of Late Mohan Kumar Gupta resident of
Village & P.O. Akbarnagar, P.S. Akbarnagar, District - Bhagalpur

.... Appellant (Petitioner)

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna
2. The Divisional Commissioner, Bhagalpur Division, Bhagalpur 8112001
3. The Collector, Bhagalpur District Bhagalpur 812001
4. The Director General of Police, Bihar, Secretariat, Patna 800001
5. The Zonal Inspector General of Police, Eastern Zone, Bhagalpur 812001
6. The Dy. Inspector General of Police, Eastern Range, Bhagalpur 812001
7. The Sr. Superintendent of Police, Bhagalpur 812001
8. The District Land Acquisition officer, Bhagalpur

.... Respondents (Respondents)

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Appearance:

For the Appellant/s : Mr. Ram Bilash Mahto,
Mr. Manoj Kumar Singh and
Mr. Brajesh Kumar Pandey, Advocates.

For the Respondent/s : Mr. K.P. Gupta, GP10 and
Mr. Binod Kumar, Advocates.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 13-12-2017

Heard learned counsel for the appellant and learned
counsel for the State.

2. The writ petitioner-appellant is aggrieved by the
judgment dated 12.07.2016 passed in CWJC No. 15301/2013, by
which the learned single Judge has been pleased to dismiss the Writ
Application as against the notification dated 14.05.2010 issued under



Section 4 read with Section 17(4) of The Land Acquisition Act, 1894 (in short, 'the Act') issued under the signature of Deputy Secretary of the Government, Department of Revenue and Land Reforms, Govt. of Bihar, Patna and further refused to interfere with the declaration made under Section 6 of the Act by the notification dated 15.06.2010.

3. The learned single Judge found that both the notifications were further followed by a Gazette Notification as required under Section 6 of the Act and thereafter a notice dated 18.02.2013 under Section 12(2) of the Act was also issued to the petitioner under the signature of the Collector informing him that an award under Section 11 of the Act has already been prepared for the land in question for a sum of Rs. 53,76,842.15. The petitioner-appellant was called upon to appear with the relevant documents to receive the award amount. It is at this stage only when the petitioner moved this Court challenging the notifications and not the award.

4. Before the learned single Judge as well as before us in Appeal, the entire contention of the learned counsel for the appellant moves around the applicability of Section 17(4) of the Act questioning its correctness as, according to the learned counsel, the notification was issued under the emergency provision of the Act without there being any application of mind. The contention is that the petitioner, who has a valuable right under Section 5A of the Act, has



been divested of his right to be heard prior to notifying the land in question under the emergency provision.

5. It appears that the learned single Judge in course of hearing of the Writ Application called for the entire records of the land acquisition proceedings and from the records the learned single Judge was satisfied that upon a requisition having been made by the Superintendent of Police, Bhagalpur for acquisition of a parcel of land for construction of a building for Akbar Nagar Police Station, the notification under Section 4 read with Section 17(4) of the Act was issued followed by the declaration under Section 6 of the Act. It is a matter of record and not disputed that these notifications and declaration were issued in the gazette and the newspaper as well. It is also not in dispute that the petitioner was served with a notice under Section 12(2) of the Act calling upon him to produce his right and title on the land and to receive the award amount, as stated above.

6. On behalf of the petitioner-appellant, heavy reliance has been placed on the judgment of the Hon'ble Supreme Court in the case of **Darshan Lal Nagpal Vs. Government of NCT of Delhi & Ors.**, reported in (2012) 2 SCC 327. The learned single Judge has discussed the said judgment of the Hon'ble Supreme Court and even another judgment on the subject in the case of **Bihar State Housing Board Vs. State of Bihar & Ors.**, reported in 2003(4) PLJR (SC)



161, has been considered in detail by the learned single Judge. It is only upon the consideration of the entire materials and having found that an award under Section 11A of the Act has been prepared within the statutory period of two years in terms of the provisions of the Act, the learned single Judge was of the view that no interference is required at this stage and, if at all, the petitioner is aggrieved by the quantum of the award amount determined by the Collector, he shall be at liberty to invoke the remedy available under the law for enhancement of the quantum of compensation.

7. Learned counsel for the appellant has once again placed before us the judgment of the Hon'ble Supreme Court in the case of **Darshan Lal Nagpal** (Supra) and has argued that the question as to justification to invoke emergency provision under Section 17(4) of the Act need to be considered at this stage because it relates to dispensation with the right of hearing conferred upon the petitioner under the provisions of the Act. This is the only point argued before us for purpose of assailing the notification and the declaration.

8. We have heard learned counsel for the appellant and perused the records as also went through the judgment of the Hon'ble Supreme Court in the case of **Darshan Lal Nagpal** (Supra). Apart from what has been held by the learned single Judge, while agreeing with the same we would also add that the judgment rendered by the



Hon'ble Supreme Court in the case of **Darshan Lal Nagpal** (Supra) was in a somehow different fact-situation inasmuch as in that case the notification issued under the emergency provision was challenged immediately without wasting any time and the land involved under the said acquisition was more than 80 Bighas. In the present case, the distinguishing feature of the case of the petitioner-appellant is that while the notification and the declaration were published in the gazette and the newspaper on 14.06.2010 and 15.06.2010 respectively and the award was also prepared within a period of two years therefrom, the petitioner-appellant did not choose to challenge the notification and remained contented with the action of the government in the matter of acquisition of the land measuring approx. 1.5 acre under the emergency provision.

9. It is well settled in law and by judicial pronouncements that a delay in approaching the court may render the petitioner disentitled for the relief prayed for if he approaches the court at a belated stage. What will be the delay and the period which would render the petitioner disentitled for the relief will depend upon the facts of each case. In the present case, we are convinced that the petitioner-appellant remained contented with the notification and declaration for a period over three years and it is only after the notice under Section 12(2) of the Act was issued to him calling upon him to



receive the award amount he moved this Court in its writ jurisdiction, but again without challenging the award. The delay in the present case is such that it would disentitle the petitioner – appellant from challenging the notification or declaration made in the year 2010.

10. In our view the judgment of the Hon’ble Supreme Court in **Darshan Lal Nagpal** (Supra) is distinguishable and would not be helping the petitioner-appellant. We are of the considered opinion that no illegality or infirmity has been committed by the learned single Judge.

11. The Appeal has no merit. It is accordingly dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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