

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1429 of 2013
IN
Civil Writ Jurisdiction Case No. 4101 of 2012**

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1. The State Of Bihar through Principal Secretary, Department Of Road Construction, Govt. Of Bihar, Patna
2. The Principal Secretary, Department Of Road Construction, Govt. Of Bihar, Patna
3. District Magistrate-Cum-Collector, Patna
4. District Land Acquisition Officer, Patna
5. Chief Engineer-In-Charge, Road Construction Department, Govt. Of Bihar, Patna
6. Senior Superintendent Of Police, Patna
7. Bihar State Housing Board Through Its Managing Director, 6 Mangles Road, Patna
8. The Managing Director, Bihar State Housing Board, 6 Mangles Road, Patna
.... Appellants

Versus

1. Sunil Kumar Son Of Dr. Suryamani Sharma R/O Bhabha Colony, Hanuman Nagar, Housing Colony, P.S. Kankarbagh Town And District- Patna
2. Kaushalya Devi W/O Dr. Suryamani Sharma R/O Bhabha Colony, Hanuman Nagar, Housing Colony, P.S. Kankarbagh Town And District- Patna
3. Urmila Devi W/O Sri Kedar Prasad Singh R/O Bhabha Colony, Hanuman Nagar, Housing Colony, P.S. Kankarbagh Town And District- Patna
4. Neelam Rani W/O Sri Arvind Kumar R/O Bhabha Colony, Hanuman Nagar, Housing Colony, P.S. Kankarbagh Town And District- Patna
5. Avinash Kashyap Son Of Sri Arvind Kumar R/O Bhabha Colony, Hanuman Nagar, Housing Colony, P.S. Kankarbagh Town And District- Patna.
... Respondents

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Appearance :

For the Appellants : Mr. Anjani Kumar. AAG-4
Mr. Sanjay Kumar, Advocate
For the Respondents : Mr. Arun Kumar, Advocate
Mr. Raghubir Chandrayan, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 07-03-2017

There are two aspects which emerge. If the State was so keen to defend its interest, they should not have taken one year and six days in moving the appeal for which a condonation petition has been filed seeking condonation.

Even if the Court ignores the delay and allows the



limitation petition, the fact stands that the order under appeal dated 23.04.2012 was passed in peculiarity of the facts and larger public interest keeping in mind the right of the private respondents as well.

Since the State and the public are the direct beneficiary of the extraordinary power which has been exercised by the learned single Judge in resolving the issue, the State cannot have the liberty to shy away from part of the liability and responsibility created because of the removal of the private respondents from their house and land.

Any interference with the order impugned will truncate the order and take away the soul of the order which this Court is not willing to do.

I.A. No. 8015 of 2013 is allowed. The delay is condoned, but the appeal is dismissed on merits.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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