

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1381 of 2014
IN
Civil Writ Jurisdiction Case No. 14921 of 2013**

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1. The State of Bihar through the Secretary, Department of Revenue and Land Reforms, Bihar, Patna
 2. Minister, Revenue and Land Reforms, Government of Bihar, Patna
 3. Collector, Patna
 4. Additional Collector, Patna
 5. Circle Officer, Patna Sadar Block, Patna

.... Appellants

Versus

1. Vinay Kumar Son of Late Raj Kishore Yadav Resident of Naya Tola, P.S. Sultanganj, District - Patna
2. Manoj Kumar Son of Late Raj Kishore Yadav Resident of Naya Tola, P.S. Sultanganj, District - Patna
3. Sanjay Kumar Son of Late Raj Kishore Yadav Resident of Naya Tola, P.S. Sultanganj, District - Patna
4. Vinod Kumar Son of Late Shyam Narayan Yadav Resident of Naya Tola, P.S. Sultanganj, District - Patna
5. Pramod Kumar Son of Late Shyam Narayan Yadav Resident of Naya Tola, P.S. Sultanganj, District - Patna
6. Jay Yadav Son Of Late Ram Lakhan Yadav Resident Of Naya Tola, P.S. Sultanganj, District - Patna
7. Ramji Prasad Son of Late Ram Lakhan Yadav Resident of Naya Tola, P.S. Sultanganj, District - Patna
8. Lal Babu Prasad Son of Late Ram Lakhan Yadav Resident of Naya Tola, P.S. Sultanganj, District - Patna
9. Vijay Yadav Son of Late Ram Lakhan Yadav Resident of Naya Tola, P.S. Sultanganj, District - Patna

.... Respondents

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Appearance :

For the Appellants : Mr. Shailendra Kumar, AC to PAAG-2
For the Respondents : Mr. Yogendra Mishra, Advocate
Mr. Umakant Tiwary, 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: 28-04-2017

Heard learned counsel for the State as well as the
private respondents.



Appeal under Letters Patent provision has been moved against the order dated 04.04.2014.

Writ was filed by the private respondents when the State tried to deprive them of their land without due authority of law. Writ was numbered as C.W.J.C. No. 14921 of 2013. As per the narration in the impugned order, on the basis of a Land Acquisition Case No. 5 of 1984-1985, steps were taken to acquire 41 decimals of land appertaining to Cadastral Survey Plot No 3, Khata No 216 appertaining to Touzi No 26 situated at Mauza – Kumhrar, Azimabad, Kadamkuan, Patna. The said land were recorded in the names of the forefathers of the present petitioners. It was their case before the learned single Judge that though a notification under Section 4 of the Land Acquisition Act, 1894, was published in the district gazette of Patna on 16.07.1984, the State authorities did not take steps for compliance of the mandate of law under Section 6 of the Land Acquisition Act, 1894, within the specified period of two years. The position not having been clearly established by the State, which could disprove the stand taken by the private respondents, the learned single Judge, based on a series of decisions rendered by the Hon'ble Supreme Court starting with the case of **Singareni Collieries Company Limited Versus Vemuganti Ramakrishan Rao and others** reported in (2013) 8 Supreme Court Cases 789 and



the case of **Pune Municipal Corporation and another Versus Harakchand Misirimal Solanki and others**, reported in **(2014) 3 Supreme Court Cases 183**, held that the land acquisition proceedings had lapsed and now in such a distant frame of time, the State was not entitled to dispossess the private respondents of their land.

The appeal, therefore, has been filed by the State assailing the order of the learned single Judge.

The submission of the counsel for the State does not in any manner dislodge the findings given by the learned single Judge with regard to the notification under Section 4 of the Land Acquisition Act, 1894, and the failure to issue the notification and payments under Section 6 of the Land Acquisition Act, 1894. Now, a different stand is being taken that some of the claimants are imposters. They have nothing to do with the property or the land and, therefore, State should be given leeway to identify such people before the direction or the benefit of adjudication made by the learned single Judge could accrue.

Learned counsel representing the private respondents submits that it is a lame duck submission made on behalf of the State because the learned single Judge in the opening portion of the impugned order has taken note of the fact that the State is not in



possession of the original records or at least are incapable of producing the original records. Therefore, on what basis such submission is being made is not understood or appreciated.

Such submission of the State is not good enough to interfere with the order of the learned single Judge. The law is settled. The failure of the State to stick to the time frame under the old Land Acquisition Act, 1894, is also not a matter of dispute and in addition to that the learned single Judge has given leeway to the State to acquire the land, if they are still interested, but that has to be done by initiation of a fresh proceeding under the new Land Acquisition Act, which cannot be said to be irrational or illegal in any manner.

It is a frivolous appeal filed on behalf of the State. Therefore, the same is dismissed being devoid of merit.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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