

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.760 of 2015
IN
Civil Writ Jurisdiction Case No. 8253 of 2010

- =====
1. The State Of Bihar , through the Principal Secretary, Department of Revenue and Land Reforms , Government of Bihar, Patna.
 2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
 3. The Director, Department of Revenue & Land Reforms, Government of Bihar, Patna.
 4. The District Magistrate-cum-Collector, Vaishali.
 5. The District Land Acquisition Officer, Vaishali

.... Respondents / Appellants

Versus

1. Lal Babu Singh Son of Rajdeo Singh
 2. Kamala Devi Wife of Birchand Prasad Singh
 3. Umesh Kumar Singh Son of Chandradeo Singh
- All are resident of Village- Tarapur, Kasturi, P.S. Bhagwanpur, District- Vaishali.

.... Petitioners / Respondents

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Appearance:

For the Appellant/s : Mr. Ranjeet Kumar, AC to AG.
For the Respondent/s : Mr. Sunil Kumar and
Mr. Ranjeet 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 AJAY KUMAR TRIPATHI)

Date: 17-08-2017

Heard counsel for the State and counsel for the private respondents.

The appeal, against the order dated 24.01.2014 preferred by the State, is a misplaced kind of exercise, embarked by them. The whole effort in assailing the order of the learned Single Judge is because the shoes which they are wearing is pinching them now. They are the ones who have brought a new law relating to land acquisition in place, which was considered a kind of pioneer in its field, but since the fall out and financial implication is pinching their



pocket they do not want to accept an indulgence which has been shown by the learned Single Judge giving liberty to the State authorities to still redeem the situation despite holding and declaring that the entire process of land acquisition under the emergency clause is vitiated, for the detailed reasons which have been provided in the order itself.

When questioned closely, the learned counsel for the State could not find any loophole in the decision of the learned Single Judge with regard to the power which was invoked for acquisition of the land in question. As a natural corollary, if the acquisition of the land is held to be vitiated the land should revert back to the land holders and nothing more was required to be said or done.

However, since a plea was taken that money has already been spent for setting up an Industrial Training Institute and almost 9 lacs have been spent, the learned Single Judge passed the following order:-

“But, the question is to what reliefs are the petitioners entitled. Learned counsel for the State points out that substantial amount of compensation as per award has already been received by various land owners only a small amount is lying unclaimed which could be in respect of the petitioners or others. Government has spent at least some money or some work on the plot. In my view, at best petitioners would be entitled to a higher compensation, i.e., compensation as if acquisition proceedings were to be initiated today. Thus, for the purposes of valuation for preparing the award the date of valuation would be 24.01.2014 only with respect to the petitioners or others who have not received the compensation. From this another issue also arises as to



what would be the basis for calculating the compensation. In my view, for calculating the compensation, now that the Land Acquisition Act has been repealed and replaced by a new Act known as Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the compensation to be awarded based on valuation as obtaining on 24.01.2014 would be calculated as per this new Act and paid to the petitioners if their land has been acquired under the said notifications within a period of two months from today. Even though all the particulars in respect of the petitioners are already available on the writ records and, therefore, with the State, at the request of learned counsel for the State, I direct the petitioners to file their claims to their right, title and interest in the lands before the District Land Acquisition Officer, Vaishali at Hajipur immediately who would then verify whether the petitioners' land have been acquired under the said notification and, if that be so, he would accordingly recalculate the award in terms of the new Act and ensure its payment within a period of two months from the date of filing the claim, as noted above."

It is a 'take it or leave it' situation for the State; either they give up the land or if they want to set up an ITI, which they feel is more important, then they better comply with the requirements of the law as indicated by the learned Single Judge in the earlier part of the order.

Appeal is misplaced and it is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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