

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7959 of 2013

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Visheshwar Mahto Son Of Late Bandhu Mahto Resident Of Village
Ramdashi, Police Station - Rajauli, District - Nawada

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Special Land Acquisition Officer, Flood Protection Project, Patna
3. The Principal Secretary, Water Resources Department , Bihar, Patna
4. The Chief Engineer, Water Resources Department, Bihar, Patna
5. The Executive Engineer, Fulwaria Dam Embankment Division, Rajauli,
Nawada
6. The Director, Land Acquisition & Rehabilitation, Water Resources
Department, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh, Advocate
Mr. Satya Prakash, Advocate
Mr. Manish Prakash, Advocate

For the Respondent/s : Mr. Asif Kalim, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

11 04-04-2017 Heard learned counsel for the petitioner as well as
learned A.C. to A.A.G.-12 appearing for the State.

The petitioner has filed this writ petition for issuance
of direction to respondents to pay compensation to the land
appertaining to old Khata no. 58, new khata no. 98, old khesra no.
303, new khesra no. 714, area measuring 4.00 acres on the ground
that the aforesaid land was taken by the petitioner under Bhudan
Committee in the year 1970. But subsequently the aforesaid land
was acquired by the State Government for construction of



Fulwaria Dam Project some time in the year 1980. The petitioner claimed compensation but the State Government/concerned Authority disputed the title of the lands in question and petitioner was refused to make payment of compensation of the acquired land. The petitioner filed Title Suit no. 15 of 1992 in the court of Sub-Judge-III, Nawada, for declaration of entitlement in respect to the aforesaid compensation. The above stated suit was decreed by the learned Sub-Judge vide judgment dated 11.09.1998 in favour of the petitioner. The State Government preferred appeal against the aforesaid judgment before the concerned appellate court.

Submission on behalf of the petitioner is that almost in similar situation a co-ordinate Bench of this Court directed the State Government to make payment of compensation passing the order dated 08.07.2010 in C.W.J.C. no. 12873 of 2006, which has been annexed as Annexure-8 to the writ petition.

Learned A.C. to A.A.G.-12 appearing for the State submits that State has already filed review petition against the order dated 08.07.2010 passed in C.W.J.C. no. 12873 of 2006 and the said review petition is still pending. He further submits that admittedly the State has preferred appeal against the judgment and decree passed in Title Suit no. 15 of 1992 and therefore, the judgment and decree passed in Title Suit no. 15 of 1992 has not



attained finality.

It is an admitted position that the land in question was acquired but up-till-now compensation has not been paid either to the petitioner or to any other person on the ground that the land is in the name of the State of Bihar. Further admitted position is that when the concerned authority refused to make payment of compensation to the petitioner, petitioner preferred writ petition bearing C.W.J.C. no. 6298 of 1990 before this Hon'ble Court which was disposed of by this Court observing that petitioner may take legal recourse before the lower court and thereafter, petitioner filed Title Suit no. 15 of 1992 before the learned Sub-Judge-III, Nawada, in which the learned Sub-Judge, Nawada, declared that petitioner was entitled for getting compensation. Thereafter, the State preferred appeal against the judgment and decree passed in Title Suit no. 15 of 1992, which is still pending but admittedly there is an order and decree in favour of the petitioner which has not been set aside as yet. The legality and propriety of the judgment and decree passed in Title Suit no. 15 of 1992 shall be decided in the appeal and it is not in the domain of this Court to verify the legality and propriety of the judgment and decree passed in Title Suit no. 15 of 1992. This Court confines itself to the reliefs as sought for in this writ



petition. Therefore, taking note of the fact that there is a direction of the civil court for grant of compensation to the petitioner, in my view, the State cannot ignore the direction of the civil court unless the aforesaid direction is set aside or stayed by a higher Court.

On the basis of the aforesaid observation, this writ petition stands disposed of giving direction to The Special Land Acquisition Officer, Flood Protection Project, Patna, (Respondent no. 2) to make payment of compensation of the lands in question to the petitioner within a period of three months from the date of receipt/production of a copy of this order. It is also made clear that the aforesaid payment shall be made subject to the decision of the competent civil court and if the judgment and decree passed in Title Suit no. 15 of 1992 is set aside by the appellate court and after attaining the finality of the appellate order, the State shall be at liberty to realize the said amount with interest from the petitioner in accordance with law.

(Hemant Kumar Srivastava, J)

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