

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.364 of 2018

In

Civil Writ Jurisdiction Case No.20140 of 2016

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Shashi Bhushan Sharma, S/o Sri Ram Manohar Pandey, resident of Village-Koialy, P.S. Nanpur, District- Sitamarhi, at present, residing at Usha Sada, Kalambag Road, Prajhatpatti, Brahma Kumari Lane, P.O. Ramna, P.S. Ramna, Town & District- Muzaffarpur.

... .. Petitioner/Appellant

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
2. The Addl. Secretary, Land Acquisition (Directorate), Old Secretariat, Govt. of Bihar, Patna.
3. The District Collector, Sitamarhi, Town & District- Sitamarhi.
4. The Land Acquisition Officer, Sitamarhi.
5. The Executive Officer, Nagar Panchayat, Janakpur Road, Pupri, District- Sitamarhi.
6. The Bihar State Road Development Corporation Ltd. A Govt. of Bihar undertaking PIU-3 Hajipur, District- Vaishali through its Deputy Manager (Technical).
7. Kanti Devi, w/o Late Bindeshwar Choudhary, resident of Raipur Kauriyar, PS Nanpur, District Sitamarhi Petitioner/Respondent

... .. Respondents/Respondent/s

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Appearance :

For the Appellant/s : Mr. Arvind Kumar, Advocate
For the Respondent/s : Mr. Lalit Kishore, Advocate, Advocate General
Mr. Manish Dhari Singh, AAG 12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-07-2018

Seeking exception to an order passed by the learned Single Bench on 26.02.2018 in CWJC No. 20140 of 2016 this appeal has been filed under Clause 10 of the Letters Patent.

Challenging an order passed by the Land Acquisition Directorate, Bihar, Patna on 18.09.2013 the writ petition in



question was filed after a period of more than three years on 17.12.2016. The learned Writ Court took note of various aspects of the matter and dismissed the writ petition. Therefore, this appeal.

Before us, two grounds were canvassed. The first ground was that compensation has not been granted and, therefore, under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act') the petitioner is entitled to restoration of possession. Having considered the aforesaid contention we find that nowhere in the writ petition foundation has been made with regard to claiming relief under Section 24 of the Act. Restoration of possession under Section 24 of the Act is a mixed question of law and fact and, therefore, in the absence of there being any pleading, assertion or even basic foundation for making such claim in the writ petition, we cannot permit the said ground to be raised at this stage in the appeal under Clause 10 of the Letters Patent.

Thereafter it was argued that notification under Section 17(4) of the Land Acquisition Act, 1894 was published and objections of the petitioner were not decided. A perusal of the notification (Annexure B to the writ petition) goes to show that it was published on 18.09.2013 and no objection was raised within a



reasonable period of time. After the notification was issued in the year 2013, for the first time a representation through the Counsel was submitted more than three years thereafter on 03.10.2016, that is, just before filing of the writ petition. Accordingly, the entire acquisition proceeding which commenced in 2013 was concluded and the petitioner for the first time seems to have raised various aspects by filing writ petition that also not in accordance with the requirement of law.

Taking note of all the aspects of the matter we find no ground to interfere into the matter warranting reconsideration of the order of the learned Single Bench dismissing the writ petition. The appeal is accordingly dismissed.

However, in case the petitioner has any grievance with regard to payment of compensation or otherwise the petitioner may take recourse for recovery of the same.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

mrl./-

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