

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.266 of 2018

In
Civil Writ Jurisdiction Case No.14211 of 2014

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1. The State of Bihar through the Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
 2. The Collector, Saharsa.
 3. The Land Acquisition Officer, Saharsa.
 4. The Survey Officer, Saharsa.
 5. The Circle Officer, Anchal- Mahishi, District- Saharsa.
 6. The Halka Karamchari, Gram Panchayat, Anchal- Mahishi, District- Saharsa.
 7. The Commissioner, Koshi Division, Saharsa

... .. Appellant/s

Versus

Md. Yunus, son of Md. Jalil, Resident of Village- Kumra, P.S. Jalai (Mahishi),
District- Saharsa

... .. Respondent/s

Appearance :

For the Appellant/s : Mrs. Archana Prasad (AC to SC- 19)
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-12-2018

Re: I.A. No. 1509 of 2018

Heard Mrs. Archana Prasad, learned counsel for the
appellant.

2. The appeal is reported to be delayed by 9 months
and 9 days.

3. We have considered the affidavit filed in support of
the delay condonation application and we find that sufficient
cause has been shown to condone the delay in filing the appeal.



The delay is condoned and the appeal shall be treated to be within time.

4. I.A. No. 1509 of 2018 stands allowed accordingly.

Re: L.P.A. No. 266 of 2018

This appeal questions the order of the learned Single Judge dated 12th April, 2017 where a concession was made on facts by the learned State Counsel that stands recorded in Paragraph 5 of the impugned judgment. The same is extracted hereinunder:-

“1. This matter has been listed under the heading to be mentioned on the basis of mention slip filed on behalf of the petitioner.

2. Petitioner has prayed for issuance of command to the respondents to pay dues compensation amount of Rs. 6,80,023 to the petitioner.

3. On 10.2.2015, I.A. no. 1281/2015 was filed on behalf of the petitioner for early hearing of this petition as the petitioner is suffering from cancer and he is in urgent need of money so that he could spend said money on his treatment.

4. It is an admitted position that certain lands of the petitioner were acquired and part compensation amount has already been paid to the petitioner. Petitioner has filed this petition for payment of remaining dues amount of compensation.

5. Learned AC to SC 19 appearing for the



State fairly conceded this fact that some lands were acquired and part of compensation amount has already been paid to the petitioner whereas remaining compensation amount is still dues.

6. In the aforesaid facts and circumstances as well as submissions of the parties, this petition stands disposed of giving direction to respondent no. 4, the Land Acquisition Officer, Saharsa/concerned respondent to ensure payment of remaining dues amount to the petitioner in accordance with law within a period of three months from the date of receipt/production of copy of this order.”

2. In view of the aforesaid factual concession and there being no concession on law, we do not find any good ground to entertain this appeal.

3. Learned counsel for the appellant vehemently urged that the writ petition had been disposed of without waiting for a counter affidavit and without even ascertaining the correct facts which according to the learned counsel for the appellant was that the respondent-petitioner had already received the compensation.

4. Since these facts were not pleaded on behalf of the State and rather a concession was made, as recorded herein above, this cannot be a ground of appeal before this Court even if the respondent-petitioner had not disclosed the entire facts. It



was the duty of the State to have either sought further time or on the other hand ought not to have granted any concession. Thus, the mistake squarely fell on the learned counsel for the State for proceeding to concede to the claim of the respondent-petitioner and if the said concession is based on incorrect facts or against the record which has resulted in any miscarriage of justice then the same ought to have been requested for being corrected through some review petition or appropriate application before the learned Single Judge himself. We are, therefore, not inclined to entertain this appeal as it is misconceived without prejudice to the State to take appropriate steps in the matter.

5. The Letters Patent Appeal stands rejected accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-Jagdish

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CAV DATE	
Uploading Date	12.12.2018
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