

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.54 of 2018

In
Miscellaneous Jurisdiction Case No.1110 of 2017

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1. Shri Amrit Lal Meena The Secretary, Road Construction Department, Govt. of Bihar, Patna.
 2. Shri Sanjay Kumar Agrawal, the District Magistrate-cum-Collector, Patna.
 3. The State of Bihar.

... .. Appellant/s

Versus

Sanjay Kumar S/o - Late Inder Prasad Singh resident of Mohalla/village - Makhdumpur, P.O. - Digha Ghat, P.S. - Digha, District - Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dinesh Maharaj (A/C to AAG- 11)
For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-07-2018

Delay of 53 days in filing of the appeal is condoned. I.A. No. 196 of 2018 stands allowed and disposed of.

This appeal under Clause 10 of the Letters Patent has been filed by officers of the State Government challenging an interim order passed on 18.10.2017 in a pending contempt proceeding being M.J.C. No. 1110 of 2017.

Originally a writ petition was filed by the respondent-petitioner Sri Sanjay Kumar being C.W.J.C. No. 21476 of 2013. He claimed that his private land has been acquired for the purpose of construction of Ganga Drive Way



and compensation has not been paid to him. When the matter came up before the Writ Court on 24.01.2017, a statement was made through counter affidavit filed by the State Government that the land would be measured and ultimately on measurement if it is found that the land belongs to the petitioner, action shall be taken for assessing and payment of compensation. The land was measured and the measurement-report showed that the land belongs to the private respondent. In the meanwhile, a suit was also filed and the suit was decreed by the trial court and it was declared that the land belongs to the private respondent Sri Sanjay Kumar. In spite there of when nothing was done, he filed the contempt application. In the contempt application which is pending before the court below and is now fixed for further proceeding, a stand was taken by the State Government that in spite of the decree granted in the Title Suit, a Title Appeal is pending and, therefore, at this stage, the order passed in the writ petition cannot be given effect to or executed.

The learned Contempt Court went through the record and found that merely filing of Title Appeal without there being any stay over the execution of the decree granted, the State Government and its officers cannot refuse to comply with the direction issued on 24.01.2017 in C.W.J.C. No. 21476 of



2013 and a proceeding for contempt was issued by directing the respondents to explain as to why they should not be proceed against for disobeying the order passed by the learned Contempt Court. Challenging this interim proceeding, this appeal has been filed under Clause 10 of the Letters Patent.

Once a Title Suit has been decreed and the execution of the decree has not been stayed by the Appellate Court, we see no error in the order warranting consideration at this interlocutory stage, when the Contempt Court is already seized of the matter.

Accordingly, finding no ground, we dismiss the Letters Patent Appeal.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-R.S.Sen

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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