

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7556 of 2015

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Daroga Singh Son of Late Dubar Singh, Resident of Village- Mogalia Purandaha, Tola- Dharhar, P.S.- Dhamdaha, District- Purnea at present residing at Village- Gunharia, P.S.- Raghunathpur, P.O.- Harnathpur, District- Siwan

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Water Resources Department, Irrigation Bhawan, Government of Bihar, Patna
2. The Executive Engineer, Water Resources and Rehabilitation Department, Purnea
3. The Director, Land Acquisition and Rehabilitation Department, Government of Bihar, Patna
4. The District Collector, Saharsa
5. The Special Land Acquisition Officer, Kosi Project, Saharsa
6. Prabhu Narayan Lal, Incharge Amin,-cum-Kanungo, Block Dhamdaha, District- Purnea
7. Anil Choudhary, Clerk Custodian of Records, Land Acquisition Officer, Saharsa

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Nath Jha
For the Respondent/s : Mr. Ajay Kumar Sharma, AC to AG

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 19-02-2019 Heard learned counsel for the parties.

2. The petitioner has put to challenge an order dated 18.10.2013, passed by the Special Land Acquisition Officer, Kosi Project, Saharsa, whereby he has rejected an application filed by the petitioner under Section 18(2) of the Bihar Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') for enhancement of the compensation amount on the ground that his application was barred by limitation.



3. It is mentioned in the order impugned that the petitioner received the notice in respect of the award under Section 12(3) of the Act on 27.01.2013. According to the Special Land Acquisition Officer, the time for filing application expired after six weeks on “19.07.2013”. 19.07.2013 is apparently a typographical error.

4. Learned counsel for the State has submitted that instead of ‘19.07.2013’, it should have been ‘10.03.2013’. Learned counsel for the State has also submitted that there is no provision under the Act for condonation of delay in making of the application and, therefore, the Special Land Acquisition Officer has acted strictly in accordance with the statutory requirement. I am not required to go into question as to whether the Special Land Acquisition Officer has power to condone the delay or not in the present case, since I am of the view that the application filed by the petitioner cannot be said to be time barred.

4. This is not much in dispute that the petitioner had made his application under Section 18(2) of the Act on 12.03.2013.

5. There is statement made in paragraph 8 of the writ application that the amount of compensation based on the award



prepared was received by the petitioner with objection and after having received the award, the petitioner filed his application under Section 18(2) of the Act within time as stipulated under Section 18 of the Act.

6. In order to appreciate the controversy involved, I must take note of the provisions under Section 18 of the Act, which reads thus:-

“18 Reference to Court.

(1). Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2). The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made,

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) In other cases, within six weeks of the receipt of the notice from the Collector



under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.”

7. Evidently, sub-Section (2) of Section 18 of the Act requires statement of grounds on which objection to the award is taken, in the application filed by a person for enhancement of the award. Proviso to sub-Section (2) contemplates two situations for the purpose of determination of period of limitation of time within which an application under Section 18 (1) of the Act is to be made. The first situation is contemplated in (a) when the person making the application under Section 18(1) of the Act was present or represented before the Collector at the time when he made his award. In such circumstance, the period of limitation has been prescribed as six weeks from the date of Collector's award. It is not the case of the State of Bihar that the petitioner was either present or represented before the Collector at the time of making of the award. The second situation is contemplated in (b) which states that such application must be filed within six weeks of the receipt of the notice from the Collector under Section 12, sub-Section (2) or within six months from the date of the Collector's award whichever period shall first expire. There is no dispute that the



petitioner received the notice on 07.02.2013 and the date of filing of his application is 12.03.2013. The filing of application certainly falls within 42 days from the date when he received the notice in respect of the award. The petitioner's application made under Section 18(1) of the Act, therefore, cannot be said to be time barred. The impugned order, therefore, requires interference and, is, accordingly, set aside.

8. Considering the discussion as above, the impugned order passed by the Special Land Acquisition Officer, Kosi Project, Saharsa dated 18.10.2013 needs interference. The order is set aside.

9. The matter is remanded back to the Special Land Acquisition Officer, Kosi Project, Saharsa to pass appropriate orders on the petitioner's application under Section 18 of the Act on merit without raising any objection on the point of delay.

10. This application is allowed.

11. There shall, however, be no order as to costs.

(Chakradhari Sharan Singh, J)

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