

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.892 of 2017
In
CIVIL REVIEW No.133 of 2011

1. The State of Bihar, through the District Magistrate, Begusarai.
2. The Secretary, Department of Revenue and Land Reform Govt. of Bihar, Patna.
3. The District Magistrate, Begusarai.
4. The District Land Acquisition Officer, Begusarai.
5. The Chief Engineer Water Resources Department Samastipur.
6. The Executive Engineer Flood Control Division- 1, Khagaria.
7. The Executive Engineer Flood Control Division Barauni Camp, Begusarai.
8. The Sub-Divisional Officer, Flood Control and Waterways Sub-Division Majhaul Camp, District Begusarai.

... .. Appellants.

Versus

Brigadier Ram Nandan Prasad Singh Son of late Chandra Mani Prasad Singh Resident of Village Babhangama, P.O. Pahsara, Babhangama, P.S. Nawkothe Via Manjhaul, District- Begusarai at Present House No. 9, Sector 23, Gurgaon, Harayana.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Hari Shankar Roy
For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 10-12-2019

This appeal under Clause-10 of the Letters Patent of the Patna High Court Rules, 1916 is directed against the judgment dated 04.10.2016 passed by the learned Single Judge in Civil Review No.133 of 2011, by which the prayer of the appellant for reviewing of order dated 29.10.2010 passed in C.W.J.C. No.13112 of 2010 was rejected.



2. C.W.J.C. No.13112 of 2010 was filed by the respondent-Brigadier Ram Nandan Prasad Singh, who had earlier filed a writ petition vide C.W.J.C. No.1654 of 1997, which was disposed of on 12.10.1998. In C.W.J.C. No.1654 of 1997, there was a prayer that the lands which were utilized for building of embankment known as Rosara-Parihara Embankment acquired by the State Government and the petitioner should be paid compensation by the State Government.

3. A counter affidavit was filed on behalf of the State in which it was stated that the government did not require the lands, especially due to the fact that the lands have been submerged in the river.

4. A show cause was filed by the Secretary, Water Resources (Irrigation Department).

5. After hearing the parties, the Writ Court directed that the respondents will acquire the lands of the petitioner on which the embankment was already constructed as well as the lands which had submerged in the river due to the said construction of the embankment.

6. Having noticed the factual findings, the learned Single Judge in C.W.J.C. No.13112 of 2010 directed the



respondent to respond to the earlier letters and make available the fund which will be required for the acquisition. It was also directed that the petitioner will be entitled to be paid compensation at the market price from the date of notification apart from a cost of Rs.50,000.00 (Rupees Fifty Thousand) only by the Water Resources Department, Flood Control Division Barauni Camp, Begusarai.

7. The final order dated 29.10.2010 passed in C.W.J.C. No.13112 of 2010 was challenged in appeal vide L.P.A. No.891 of 2017. A Division Bench of this Court dismissed L.P.A. No.891 of 2017 for non-prosecution vide order dated 26th November, 2018.

8. The State of Bihar, thereafter, filed an application for restoration of L.P.A. No.891 of 2017 vide M.J.C. No.4758 of 2018.

9. A Division Bench of this Court (Coram: Hon'ble the Chief Justice and Hon'ble Mr. Justice Dinesh Kumar Singh) vide order dated 13.11.2019 dismissed the said M.J.C. filed for restoration of L.P.A. No.891 of 2017 observing as under:-

“Having perused the record, we are of the considered view that no further order is required to be passed in the present petition for the instant L.P.A. stood dismissed for non-prosecution which facts stood recorded in order dated 26th November



2018, passed in L.P.A. No. 892 of 2017, titled as the State of Bihar and Ors. Vs. Brigadier Ram Nandan Prasad Singh. The present appeal stands dismissed as such.

Despite our repeated requests, learned counsel could not point out the order restoring the appeal, as is so argued before us.

In any event, we find on merit the state cannot be allowed to agitate the issue at this point of time for all litigation and that must come to an end at some stage. We are dealing with a case, where this Court had directed the State to take appropriate action in view of the order dated 12th October 1998, Patna High Court MJC No.4758 of 2018(16) dt.13-11-2019/3 passed in C.W.J.C. No. 1654 of 1997, but for some reason or the other, the state chose not to implement the order in its true letter and spirit. Litigant has got a right to seek appropriate remedy but it has to be in accordance with law. Helpless citizen cannot be harassed by resorting to multiple proceedings which we find are frivolous in nature.

The State must be adhered to its litigation policy in itself and not act as a cantankerous litigant.

10. It would be pertinent to note here that the appellant had also preferred a civil review application vide Civil Review No.133 of 2011 for review of order dated 29.10.2010 passed in C.W.J.C. No.13112 of 2010. The review application was dismissed by the learned Single Judge vide judgment dated 04.10.2016.

11. Being aggrieved by the judgment dated 04.10.2016 passed in Civil Review No.133 of 2011, the appellant has filed this instant Letters Patent Appeal.

12. Once the Letters Patent Appeal preferred against the order passed in C.W.J.C. No.13112 of 2010 has been dismissed by this Court, an independent appeal against the



order passed in Civil Review No.133 of 2011, whereby the learned Single Judge has dismissed the application for review of the order passed in C.W.J.C. No.13112 of 2010, would not be maintainable.

13. Accordingly, this appeal is dismissed as not maintainable.

(Ashwani Kumar Singh, J.)

(Prakash Chandra Jaiswal, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2019
Transmission Date	NA

