

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.60 of 2021

In

Civil Writ Jurisdiction Case No.7866 of 2018

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1. The Group General Manager, N.T.P.C. Ltd., Kahalgaon, District- Bhagalpur.
 2. The Assistant General Manager (Law and HR), Kahalgaon, District- Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Old Secretariat, Patna.
2. The Collector, Bhagalpur.
3. The Land Acquisition Officer, Bhagalpur.
4. Gyaneshwar Sah Son of Late Ishwar Sah Bihar.
5. Banshidhar Sah Son of Late Shaligram Sah Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Dr. K.N. Singh, Sr. Adv. Mr. Amresh Kumar Sinha, Adv. Mr. Prakritita Sharma, AC to ASG1
For the State	:	Mr. Khurshid Alam, AAG12
For the Pvt. Resp.	:	Mr. Mahesh Narayan Parbat, Sr. Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 10-10-2022

I.A. No. 01 of 2021

By way of present interlocutory application, the appellants seek condonation of delay in filing the present Letters Patent Appeal.

For the reasons mentioned in the interlocutory application application, the prayer made therein for condonation of delay is allowed.



Accordingly, I.A. No. 01 of 2021 stands allowed.

LPA No. 60 of 2021

Heard Mr. K.N. Singh, learned senior advocate for the appellant NTPC and Mr. Mahesh Narayan Parbat, learned senior advocate for the respondent/land owner.

By judgment and order dated 25.11.2019, the learned Single Judge had directed the Collector, Bhagalpur to ensure that the matter i.e. the issue of payment of land acquired by the Government to be used by the NTPC to be taken to its logical conclusion and actual payment be transferred in the account of the respondent, latest within six months from the date of passing of the order in accordance with law.

This order was passed in CWJC No. 7866 of 2018. On the day when the aforesaid order was passed i.e. on 25.11.2019, the counsel for the NTPC/appellants could not appear in Court and therefore the NTPC remained unrepresented.

In Mouza Kahalgaon in the district of Bhagalpur, a huge chunk of land was acquired by the State Government for



utilization by NTPC for construction of Super Thermal Power Station. Out of the acquired area of land, 869 acres of land were transferred to NTPC for the aforesaid purpose. Approximately 10 acres of land belonging to the respondents also was transferred to the NTPC in the same transaction but, for that, the respondent had not been paid compensation.

The State Government initially had taken a plea that the lands belonged to the Government and, therefore, no compensation was required to be paid. This led the respondent to file a Title Suit for declaration by the competent court whether the land in question belonged to them vide Title Suit No. 192 of 1987. The Title Suit was decided on 06.02.1993 holding that the respondents are the owners of the land. The aforesaid decree in the title suit was never challenged by the state government and in view of the declaration in the Title Suit, payment process started and compensation for about 4 acres of land was paid to the respondents. In the meanwhile, the Government in its wisdom challenged the aforesaid decree in first appeal (F.A. No. 634 of 1993) which ultimately was disposed of on 24.07.2010 upholding the judgment of the trial



court. It was under this circumstance that the prayer made by the respondents/writ petitioners was allowed and the Collector, Bhagalpur was directed to take steps for making payment of compensation of the land acquired within specific time-frame.

The present appeal has been filed by the NTPC on several grounds, one being that NTPC was never made a party in the Title Suit or in any earlier proceeding. In fact, for the land transferred to the NTPC, corresponding payments were made by it which remained with the State Government and the same was disbursed by the State Government on pro-rata basis. The appellant/NTPC therefore contends that for all practical purposes, they had done their part i.e. they had made payments for the land which was transferred to them after acquisition. The payment of compensation was the responsibility of the State Government/ the acquiring authority. For any reason whatsoever, if payments were not made to the land owner, the NTPC would not be saddled with any enhanced cost. Today, the situation is that out of 10 and odd acres of land, no compensation has been made for approximately 6 acres 52 decimal of land. It is in this context that the learned



Single Judge passed an order which is under challenge in this appeal, which order was based on the averments made by the Collector, Bhagalpur, in person who, disclosed before the learned Single Judge that the NTPC authorities, who are in possession of the land as beneficiaries, would be required to pay the compensation. He further assured the Court that the NTPC has assured him that such payment shall be transferred within two weeks.

Mr. K.N. Singh, learned senior advocate for the NTPC has submitted that such statement of the Collector was factually incorrect. Since the NTPC that time was represented by a lawyer who got elevated to the Bench in the interregnum, there was no representation on its behalf even though NTPC had been made party in the aforesaid writ petition. What was required to be told on behalf of the NTPC before the learned Single Judge was that with respect to the entire land transferred to the NTPC for construction of thermal power station, the corresponding payments were made to the State Government. It was for the State Government to disburse the compensation.



The dispute has arisen between the State Government and the NTPC with respect to the difference of amount because of enhanced compensation as for 6 acres and 52 decimals, no compensation was paid under the old Act. This obviously remains a lis between the State and the NTPC for which the respondents cannot be held responsible.

Two aspects need not be forgotten namely, the respondents are the land owners about which there is no dispute and secondly the dispute which arose because of the contention of the State Government that it was their land, stood resolved by the declaration of the competent court in Title Suit No. 192 of 1997 and ultimately affirmed in First Appeal No. 634 of 1993 by the High Court. The respondents cannot be left high and dry for any dispute with respect to the transferring of payment towards compensation of such land. It is for the State Government to take a call, calculate the compensation amount and pay to the respondents at the earliest. If there is any dispute with respect to the difference between the enhanced amount and the amount of compensation which is payable for the rest of the chunk of



land, that issue remains line only between the two government agencies namely i.e. the State Government and the NTPC.

We would like to rest this appeal with a positive direction to the concerned acquiring authority/State Government to immediately comply with the order of the learned Single Judge and pay the compensation amount to the respondents in accordance with law, not later than three months from the date of passing of this order, failing which the order passed by the learned Single Judge and this Court would stand violated for which necessary consequences may follow.

The appeal thus stands dismissed but without any order as to cost.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	17.10.2022
Transmission Date	

