

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1889 of 2015

In
Civil Writ Jurisdiction Case No.7439 of 2013

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1. The State of Bihar Bihar
 2. The Principal Secretary, Department of Land Revenue, Govt. of Bihar, Patna.
 3. The Principal Secretary, Disaster Management, Govt. of Bihar, Patna.
 4. The Divisional Commissioner, Munger.
 5. The District Magistrate, Khagaria.
 6. The District Land Acquisition Officer, Khagaria.
 7. The Sub-Divisional Magistrate, Khagaria.
 8. The Circle Officer, Khagaria.

... .. Appellant/s

Versus

Ravindra Singh Son of Late Geeta Prasad Singh Resident of Village-Marsaiti,
P.O.-P.S.-Teghra, District-Begusarai.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Khurshid Alam, AAG-12
For the Respondent/s : Mr. Abhay Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 29-03-2022

Heard Mr. Khurshid Alam, learned AAG -12 for the appellants/State and Mr. Abhay Kumar Singh-I, learned Advocate for the respondent/land owner.

The respondent had preferred a writ petition challenging the order dated 07.08.2012, passed by the Divisional Commissioner, Munger whereby the earlier decision with respect to the nature of the land acquired under emergency



provision of the Land Acquisition Act, 1894 was reviewed and it was held that the land in question was not a residential land but a *Bhit* land and the compensation amount which had been proposed by the Collector was exorbitant and could not have been treated as correct estimate of the lands so acquired.

The learned Single Judge, on going through the entire set of documents related to the acquisition of the land in question, found that no final award had been published in terms of Section 3A of Section 17 of the Act. The amount to the extent of 80% of the quantum of compensation was not out of the final award and therefore, the land owner/respondent herein could not have invoked the provisions of Section 18 of the Act for Court reference.

Thus, the writ court was of the view that the order dated 07.08.2012 issued by the Divisional Commissioner was not sustainable in the eyes of law and therefore directed him to undertake a fresh inquiry and decide the nature of the land and the quantum of compensation on the date of the notification issued under Section 4 of the Act in the second round of acquisition proceedings.

The aforesaid order was challenged by the State in this appeal, wherein an interim order was passed by the



predecessor Bench staying the directions issued by the learned Single Judge in the writ petition. However, it was observed by the Division Bench that the land owner/respondent would be perfectly within his rights in the meanwhile to seek a reference under Section 18 of the Land Acquisition Act, 1894 and that if such a reference was sought within that time, the competent court shall decide the amount of compensation payable to the land owner on account of acquisition of the land in question in accordance with law. The Letters Patent Appeal against the aforesaid order, however, remained pending with this Court.

The land owner challenged the aforesaid interim order of the Division Bench before the Supreme Court, which *vide* order dated 02.08.2019, came to the conclusion that there was no necessity for directing the land-owner to invoke the reference under Section 18 of the Land Acquisition Act, 1894 when the fundamental contention on his behalf before the Division Bench was that no award till date had been passed. The Supreme Court was of the view that there was no necessity of admitting the Letters Patent Appeal and staying the judgment of the learned Single Judge, when there was no other forum available for the land owner to have questioned the quantum of the compensation in view of the emergency provision having



been invoked by the State and granting 80% of the compensation amount to the land owner which had been accepted by him with demur.

After some arguments, Mr. Khurshid Alam, learned Advocate for the appellants/State submits that the appellant shall have no objection if the order of the learned Single Judge is sustained and the Divisional Commissioner would undertake fresh inquiry and decide the nature of the land with reference to the date of the notification issued under Section 4 of the Act in respect to the second/present acquisition proceedings.

Considering the aforesaid stand of the appellants/State, there would be no necessity of continuing with this litigation.

Accordingly, this appeal is disposed off with a direction that the order of the learned Single Judge directing the Divisional Commissioner, Munger to undertake a fresh inquiry with respect to the quantum of compensation payable to the appellant shall be completed within a period of three months from the date of receipt/production of a copy of this order before him.

Needless to state that if there is no objection of the respondent to the final assessment of the compensation amount



so arrived at that shall be paid to the land owner keeping in mind that much time has already been wasted in this litigation.

The appeal stands disposed off accordingly.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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