

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20480 of 2018

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Rama Nand Choudhary, Son of Late Lila Nand Choudhary, Resident of village- Samiya (mahinathpur), P.O.- Mehat, P.S- Bhairabsthan, district- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Madhubani.
3. The Additional Collector, Madhubani.
4. The District Land Acquisition Officer (NH 57 Project), Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shankar Kumar Choudhary, Advocate
For the Respondent/s : Mr.Raj Kishore Roy, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 05-07-2023

Heard learned counsel for the petitioner and learned counsel for the State.

2.The present petition has been filed for directing the respondent authority to consider and dispose of the representation of the petitioner dated 18.09.2018 (Annexure-2) filed in terms of the Right to Fair Compensation And Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 for determination of the amount of compensation awarded in favour of the petitioner against his land appertaining to Khata No. 205, new Khesra No. 1094, 1094A, and 1095 (old Khesra No.1120 and new Khesra 1095 old no. 1074 respectively, situated at Village -Mahinathpur, P.S.



Bharibsthan, District- Madhubani which has been taken for broadening and realignment NH-57.

3. Learned counsel for the petitioner submits that he is son of Lilanand Choudnary and in whose name letter has been issued from the Land Acquisition Officer, Madhubani. He further submits that the petitioner had received part payment but due to death of his father he could not receive the full payment towards compensation and, therefore, the money towards compensation is still lying with the District Land Acquisition Officer, Madhubani. He further submits that he has filed several representations in this regard before the respondent No.2, namely, the Collector, Madhubani, but till date neither any decision has been taken on the representation of the petitioner nor payment of compensation has been made.

4. Learned counsel for the State submits that in the light of the pleading made in the counter affidavit filed on behalf of respondent Nos. 2 to 4, petitioner is not entitled for any relief in this matter due to the reason that the alleged acquisition was made in the year 2006. He has also referred a judgment rendered by a co-ordinate Bench of this Court on 17.05.2019 in CWJC No. 10057 of 2019, titled as Shyam Mandal vs. the State of Bihar in which on the ground of delay



the claim has been rejected.

5. Upon going through the pleadings and arguments advanced by learned counsel for the parties, it is necessary to place the latest judgment on the point of delay rendered by Hon'ble the Apex Court in the case of Sukh Dutt Ratra & Anrs. Vs. State of Himachal Pradesh & Ors. reported in 2022 (7) Supreme Court Cases 508. It would be apposite to quote paragraph Nos. 18 and 24 as under :-

18. There is a welter of precedents on delay and laches which conclude either way—as contended by both sides in the present dispute—however, the specific factual matrix compels this Court to weigh in favour of the appellant landowners. The State cannot shield itself behind the ground of delay and laches in such a situation; there cannot be a “limitation” to doing justice. This Court in a much earlier case — *Maharashtra SRTC v. Balwant Regular Motor Service* [*Maharashtra SRTC v. Balwant Regular Motor Service*, (1969) 1 SCR 808 : AIR 1969 SC 329] , held : (AIR pp. 335-36, para 11)

“11. ... ‘Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in either of these cases, lapse of time and delay are most material.

But in every case, if an argument against relief, which otherwise would be just, is founded upon



mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy'."

24. And with regard to the contention of delay and laches, this Court went on to hold : (*Vidya Devi case* [*Vidya Devi v. State of H.P.*, (2020) 2 SCC 569 : (2020) 1 SCC (Civ) 799] , SCC pp. 574-75, para 12)

"12.12. The contention advanced by the State of delay and laches of the appellant in moving the Court is also liable to be rejected. Delay and laches cannot be raised in a case of a continuing cause of action, or if the circumstances shock the judicial conscience of the Court. Condonation of delay is a matter of judicial discretion, which must be exercised judiciously and reasonably in the facts and circumstances of a case. It will depend upon the breach of fundamental rights, and the remedy claimed, and when and how the delay arose. There is no period of limitation prescribed for the courts to exercise their constitutional jurisdiction to do substantial justice.

12.13. In a case where the demand for justice is so compelling, a constitutional court would exercise its jurisdiction with a view to promote justice, and not defeat it. [*P.S. Sadasivaswamy v. State of T.N.*, (1975) 1 SCC 152 : 1975 SCC (L&S) 22] "

6. After considering this aspect that it is the petitioner's land which has been acquired in the year 2006 and the National Highway Authority of India has deposited money



for him for which the petitioner is entitled and particularly in the light of decision rendered in the case of *Sukh Dutt Ratra (supra)* in this regard, this Court finds that there is no delay and laches in land compensation.

7. As such, this writ petition is allowed granting liberty to the petitioner to file a fresh representation before the respondent No.2, namely, the Collector, Madhubani raising all the grievances as raised in the present petition along with a copy of this order as also the judgment rendered in the case of *Sukh Dutt Ratra (supra)* within four weeks from the date of the order whereupon the respondent No.2, namely, the Collector, Madhubani is directed to pass a reasoned and speaking order on the representation of the petitioner after awarding adequate opportunity of hearing to the petitioner and also considering the findings given in the judgment aforesaid within eight weeks thereafter.

8. With the above observation and direction, the writ petition stands disposed of.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.07.2023
Transmission Date	NA

