

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.155 of 2019

1. The State of Bihar through Collector, Patna.
2. The District Land Acquisition Officer, Patna.

... .. Appellant/s

Versus

1. Rakesh Kumar Son of late Dineshwar Sharma, Resident of Village Amhara Police Station- Bihta, Distt. Patna.
2. Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan, Patna.
3. Dhananjay Kumar, Bihar

... .. Respondent/s

Appearance :

For the State	:	Mr. Uday Shankar Sharan Singh (Gp 19), Ms. Dr. Shobha Choubey, AC to GP-19
For private Respondent/s	:	Mr. Ambarish Kumar, Adv., Mr. Mukund Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

10 26-09-2023 Heard Mr. Uday Shankar Sharan Singh and Ms. Dr. Shobha Choubey, learned counsels appearing on behalf of the State and Mr. Ambarish Kumar and Mr. Mukund Kumar, learned counsels appearing on behalf of the private respondent.

2. Learned counsel appearing on behalf of the respondents seeks permission to file hard copy of the supplementary affidavit to the reply of the Interlocutory Application No. 01 of 2022 in the Court, let to be accepted.

3. Learned counsel for the appellants seeks permission to add Section 5 of the Limitation Act in Interlocutory Application No. 01 of 2022, during course of the day.



Permission is granted.

Interlocutory Application No. 01 of 2022

4. I.A. No. 01 of 2022 has been filed under ***Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*** read with ***Section 5 of the Limitation Act*** for condonation of delay, which has occurred in filing of the present appeal.

5. Before dealing with the limitation matter, it is necessary to deal ***Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013***, which reads as follows:-

“74. Appeal to High Court.—(1) The Requiring Body or any person aggrieved by the Award passed by an Authority under section 69 may file an appeal to the High Court within sixty days from the date of Award: Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days. 32 (2) Every appeal referred to under sub-section (1) shall be heard as expeditiously as possible and endeavour shall be made to dispose of such appeal within six months from the date on which the appeal is presented to the High Court.”



6. It is made clear from the Section itself that the proviso provide that, if appeal is not filed within a period of 60 days, it will have to file within a further period not exceeding 60 days. Admittedly, this appeal has been filed on 26.08.2019.

7. Learned counsel for the appellants submits that the order passed in Reference Case No. 1643 of 2017 (P) on 28.03.2019 and an Award was prepared and signed on 04.04.2019. Learned counsel for the appellants further submits that the requisition for certified copy of the Judgment and Award was filed on 14.05.2019 and on 15.05.2019 notify for filing of requisite stamp and the same was submitted on 15.05.2019 and the certified copy of the Judgment and Award was supplied on 16.05.2019.

8. It is apparent from the averments made in Interlocutory Application, the requisition for certified copy of the Judgment and award was filed after 39 days and the award was obtained on 16.05.2019 and thereafter 103 days after the instant First Appeal has been filed. Therefore, the First Appeal has been filed after 142 days (39 days + 103 days) from the date of signing the Award excluding 3 days time for obtaining the certified copy of the Award. In the facts and circumstances, the First Appeal has been filed much after 120 (60 + 60) days



after signing of the Award i.e. 22 days. The applicability of Section 5 of the Limitation Act has been considered in First Appeal No. 120 of 2018, vide order dated 18.08.2023 passed by this Court.

9. Considering the submissions of both the parties and also from the aforesaid decisions, I am of the view that Section 5 of the Limitation Act shall not be applicable. Hence, this appeal is incompetent, which has been filed after lapse of 120 days and the application of Section 5 of the Limitation Act also precluded.

10. In the aforesaid facts and circumstances of the case, Interlocutory Application No. 01 of 2022 is dismissed. Consequent upon dismissal of I.A. No. 01 of 2022, this First Appeal is also dismissed as time barred.

(Khatim Reza, J)

pravinkumar/-

U			
---	--	--	--

