

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1648 of 2019

In
Civil Writ Jurisdiction Case No.22876 of 2019

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Goverdhan Pujari @ Goverdhan Lal Pujari Son of Late Sita Ram Sao,
Resident of Harding Road, P.S. Sachivalaya, District- Patna.

... .. Appellant/s

Versus

The Union of India through the Principal General Manager, Telecom,
Telephone Bhawan, R. Block, P.S.-Sachivalaya, Town and District-Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Goverdhan Pujari (In Person)
For the Respondent/s : Mr. Binay Kumar Pandey

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

11 05-10-2023 The appellant is before us claiming damages of Rs. 80 lakhs as compensation for forceful acquisition of the property, under the new Land Acquisition Act, 2013. The appellant's submission is that earlier he had filed a title suit bearing No. 172/1997, and the same was decreed. However, the respondents forcefully demolished the construction over the land of Plot No. 1217, Khata No. 282 Area 29 decimals, but no proceeding for acquisition of land was taken up. Hence, the claim for compensation in the writ petition.

2. The learned Single Judge found that the brother of the appellant had filed C.W.J.C. No. 10450 of 2010, and this



Court by order dated 04.03.2011 directed the Collector to hold an inquiry and take decision on the claim of the appellant. The judgment of this Court is produced as Annexure-3. An order was passed by the Collector rejecting the claim raised. The petitioner therein filed M.J.C. No. 4944 of 2012 which was dismissed, holding that the legality of the order passed by the Collector has to be challenged separately and not in contempt. The rejection order of the Collector produced as Annexure-5, is admittedly at the instance of the brother of the petitioner herein. The petitioner has not challenged the above order in the writ petition. The petitioner's contention is that he was not a party in the proceedings before the Collector or before this Court in the writ petition filed by his brother.

3. It cannot be disputed that the petitioner is a co-owner along with his brother, since the claim is that his grandfather obtained title of the property. Even in the suit filed, that is the claim. A co-owner has to definitely challenge the order passed by the Collector which was also in compliance of the directions issued by this Court, in which the brother, a co-owner had sought for such consideration.

4. Further, the learned counsel for the respondents point out that there was another case filed as C.W.J.C. No. 2760



of 2012 which was dismissed by order dated 13.08.2012. One Govardhan Math had filed the aforesaid suit on the very same contentions and relying on the decree passed in Title Suit No. 172/1997. Therein, it was claimed that despite the title having been declared, the lands in question were not returned to the possession of the plaintiff. A further Title Suit was filed as Title Suit No. 169/2000, which was rejected. It is also seen from the judgment that the contention was that one Haj Bhawan which was constructed on the said property, was demolished by the official respondents. The learned Single Judge who had considered the matter, noticed the contention of the respondent that the land acquisition proceeding was initiated as early as in 1911 and the compensation is said to have been paid. Further Title Suit No. 169/2000 and its dismissal was suppressed in the aforesaid writ petition. The petitioner therein was granted liberty to establish title of land in a separate suit, if so desirous.

5. In the present case also, the contention is based on the decree in the suit, which is produced as Annexure-2. From Annexure-2, we find that the plaintiff was the petitioner herein but however, the State Government has not been impleaded as a defendant. The contention of the plaintiff is that at that point of time, it was the Union of India that had acquired the property. If



the claim is that the property was acquired, we do not understand how the suit was decreed. In any event, now the property is in the possession of the State Government. Further, if the plaintiff in the suit claims re-possession of the property on which title was decreed, then necessarily he has to move the Civil Court for execution of the decree. If compensation is claimed for demolition, again a suit has to be instituted, since there are disputed questions of fact, which would have to be proved by leading evidence.

6. We find absolutely no reason to entertain the appeal and the same stands dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

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