

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1179 of 2023

In
Letters Patent Appeal No.60 of 2021

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

... .. Petitioner/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, Resident of Kajipura, Kahalgaon Municipality, P.S.- Kahalgaon, District- Kahalgaon, District- Bhagalpur.
5. Banshidhar Sah, Son of Late Shaligram Sah, Resident of Kajipura, Kahalgaon Municipality, P.S.- Kahalgaon, District- Kahalgaon, District- Bhagalpur.

... .. Opposite Party/s

with

Miscellaneous Jurisdiction Case No. 2498 of 2023

In
Letters Patent Appeal No.60 of 2021

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1. Gyaneshwar Sah, Son of Late Ishwar Sah, Resident of Mohalla-Kajipura Under Kahalgaon Municipality, P.S. Kahalgaon, District-Bhagalpur.
 2. Banshidhar Sah Son of Late Shaligram Sah Resident of Mohalla-Kajipura Under Kahalgaon Municipality, P.S. Kahalgaon, District-Bhagalpur.

... .. Petitioner/s

Versus

1. Sri Narayan Prakash Shahr, Group General Manager, N.T.P.C., Kahalgaon, District-Bhagalpur.
2. Sri Ajay Prasad, Assistant General Manager (Law and H.R.), N.T.P.C., Kahalgaon, District-Bhagalpur.
3. The State of Bihar through Sri Brajesh Malhotra, Additional Chief Secretary, (as post Principle Secretary has been abolished), Land Reforms Department, Government of Bihar, Old Secretariat, Patna.
4. Sri Subrato Kumar Sen, the Collector, Bhagalpur.
5. Sri Binod Kumar, Additional Collector-Cum-Senior Land Acquisition Officer, Bhagalpur.



... .. Opposite Party/s

Appearance :

(In Miscellaneous Jurisdiction Case No. 1179 of 2023)

For the Petitioner/s : Dr. K.N. Singh, Sr. Advocate
Mr. Amaresh Kumar Sinha, Advocate
For the State : Mr. Majid Mahboob Khan, AC to AAG-12
For the Opposite Party/s : Mr. M.N. Parbat, Sr. Advocate
Mr. Praveen Prabhakar, Advocate

(In Miscellaneous Jurisdiction Case No. 2498 of 2023)

For the Petitioner/s : Mr. M.N. Parbat, Sr. Advocate
Mr. Praveen Prabhakar, Advocate
For the NTPC : Dr. K.N. Singh, Sr. Advocate
Mr. Amaresh Kumar Sinha, Advocate
For the State : Mr. Majid Mahboob Khan, AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 22-07-2024

The NTPC, Kahalgaon has preferred the present application seeking modification of the order passed by this Court dated 10.10.2022.

2. Along with the aforementioned application, the contempt petition preferred by the respondents *vide* MJC No. 2498 of 2023 also is listed before this Court.

3. Both the matters were heard together.

4. Against the judgment and order dated 25.11.2019 passed by a learned Single Judge of this



Court, the NTPC had come up before the Division Bench of this Court in LPA No. 60 of 2021. The learned Single Judge had directed the Collector, Bhagalpur to ensure that for the land of the respondents having been acquired and consumed, they ought to be compensated. The Collector, Bhagalpur was directed to ensure such payment of the land acquired by the Government to the respondents within six months.

5. In the district of Bhagalpur, a huge chunk of land was acquired by the State Government for utilization by the NTPC for construction of Super Thermal Power Station. Around 869 acres of such acquired land was transferred to NTPC for the aforesaid purpose. Out of that area of the land acquired, the respondents were the owners of 10 acres of land.

6. In the dispute, initially, the State Government had taken a plea that the land which was



claimed by the respondents actually belonged to the Government and, therefore, no compensation was required to be paid to the respondents. The respondents, thereafter, preferred a Title Suit for declaration of their ownership. The Title Suit No. 192 of 1987 was decided on 06.02.1993 holding that the respondents are the owners of the land.

7. This decree by the Civil Court was never challenged either by the State Government or by NTPC as NTPC was not a party in that Title Suit.

8. Thereafter, it appears that the payment process started and the respondents were paid for 4.41 acres of land.

9. After this, the State Government preferred First Appeal against the decree in favour of the respondents, which was ultimately disposed off on 24.07.2010, upholding the judgment of the Civil Court in the Title Suit, referred to above.

10. The NTPC challenged the aforementioned



decision of the learned Single Judge directing for payment of compensation to the respondents within a fixed time limit on various grounds, especially that NTPC was never made a party in the Title Suit or any earlier proceeding.

11. The other contention of the NTPC was that for the land transferred to it, corresponding payments were made to the State Government and the State Government had been disbursing such amount to the land holders on pro-rata basis.

12. The definite stand of the NTPC was that for all the lands consumed by NTPC, payments were made to the State Government and, therefore, it was the responsibility of the State Government to compensate the respondents for the rest of the lands (6.52 acres).

13. This Court dismissed the appeal of the NTPC with a direction to the Government to immediately comply with the order of the learned



Single Judge and pay compensation to the respondents in accordance with law within three months.

14. This order in LPA was challenged by the NTPC before the Supreme Court of India vide SLA (C) Nos. 23686/2022, which too was dismissed *vide* order dated 04.01.2023.

15. Initially, some objections were raised by the State, viz., the requirement of a fresh requisition but in view of the NTPC having released the amount of compensation of the land in question to the respondents, the State has finally agreed to transfer the amount to the respondents. However, the NTPC has been informed that another co-sharer of the respondents has preferred a Title Suit, seeking his share in the land and in which Title Suit, the NTPC has also been made a party.

16. We are of the considered view that such litigation or any imminent litigation ought not to be



the concern of either the NTPC which has consumed the land of the respondents or the State Government which has received the money from NTPC for the aforenoted land.

17. However, to ensure that in the event of the respondents losing in the Title Suit and the requirement of the money paid as compensation to them being clawed back, it would only be appropriate that the respondents be asked to furnish an undertaking that they shall recompense in case they lose in the litigation concerning their ownership of the land in question.

18. The aforenoted caveat put forth by the NTPC and the State appears to us to be justified.

19. The amount of compensation shall be paid to the respondents within a period of four weeks after obtaining necessary undertaking from them or asking them to pledge a landed property which would be a sufficient surety for the amount in question.



20. With the aforenoted direction, the
modification application and the contempt petition are
disposed off.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Rajesh/Saurabh

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.07.2024
Transmission Date	

