

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.157 of 2023

In

Civil Writ Jurisdiction Case No.9163 of 2015

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Shila Singh @ Shilanath Singh, Son of Late Manki Singh, Resident of Village
and Post- Bharpura, P.S.- Sonpur, District- Saran at Chapra.

... .. Appellant/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-Collector, Saran at Chapra.
3. The District Land Acquisition Officer, Saran at Chapra.
4. The General Manager, East Central Railway, Hajipur.
5. The General Manager (P), East Central Railway, Hajipur.
6. Zubaida Bibi, Wife of Habib Mian, No. 6 Resident of Village and Post-
Bharpura, P.S. Sone

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Shakti Suman Kumar, Advocate Mr. Dilip Kumar Tandon, Advocate
For the Respondent/s	:	Mr. Md. Khurshid Alam (AAG-12) Mr. Arun Kumar Bhagat, A.C. to AAG-12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-07-2025

Heard Mr. Shakti Suman Kumar, learned counsel for

the appellant/original petitioner and Mr. Arun Kumar Bhagat, learned counsel for the State.

2. The present Letters Patent Appeal has been filed under provisions of Clause 10 of the Letters Patent of the Patna High Court Rules.

3. In the present appeal, the appellant/original petitioner has challenged the judgment dated 12.12.2022 passed by learned Single Judge in CWJC No. 9163 of 2015, whereby the learned Single Judge has dismissed the petition filed by the present appellant.

4. Learned counsel for the appellant would mainly contend that the appellant is the owner of the land which has been acquired by the respondent-Railways. The appellant has claimed that award in respect of 19 dhurs out of 2 kathas of land was made in favour of his mother. He has also alleged that for remaining 1 katha and 1 dhur, award was prepared in the name of one Zubaida Bibi wife of Habib Mian, though she has no right, title, interest or possession over the said land. It is further submitted that L.A.R. Case No. 2/2013 is pending in the court of Sub-Judge-II, Saran at Chapra with regard to the aforesaid dispute.

5. Learned counsel further submits that the appellant

claims to be the son of Ram Jyoti Devi who died in the year 2005. Appellant has prayed that as per the policy of the Railways, which was framed in the year 2007, the son of the appellant is entitled to get employment in the Railways.

6. Learned counsel submits that the learned Single Judge dismissed the petition filed by the petitioner mainly on two grounds; firstly that the learned Single Judge considered that the land of the petitioner was acquired in the year 2002 whereas the petitioner filed the petition in the year 2015. Therefore, there was a delay of 13 years in filing the petition and, therefore, learned Single Judge did not consider the case of the petitioner on merits, so far as parcel of the land is concerned. Secondly, so far as remaining parcel of land is concerned, i.e., 1 katha 1 dhur land, which has been acquired by the respondent-Railways, it has been observed by learned Single Judge that the dispute with regard to the grant of compensation for the said land is pending before court of Sub-Judge-II, Saran at Chapra in L.A.R. Case No. 2/2013. It is also contended that learned Single Judge observed that the said land is less than 0.2 acres and as the dispute is pending before the concerned court, petitioner would not be entitled to any compensation. Thus, the learned Single Judge has not entertained the petition on that count also.

Learned counsel, therefore, urged that the learned Single Judge committed an error while dismissing the writ petition filed by the petitioner.

7. Learned counsel would submit that the similarly situated person filed the petition in the year 2016 before this Court and learned Single Judge of this Court entertained the said petition. Therefore, in the present case, learned Single Judge committed an error while dismissing the petition filed by the present petitioner on the ground of delay. He would further submit that though the land was acquired in the year 2002, the mother of the appellant died in the year 2005 and after the death of the mother of the appellant now the appellant is the owner. Hence, the appellant is entitled to get the benefit of the policy of the Railways, as a result of which, the appellant/original petitioner has preferred the petition for getting employment of his son.

8. Alternatively, learned counsel submits that this Court may grant liberty to the appellant to file appropriate proceeding after the dispute is resolved by Sub-Judge-II, Saran at Chapra in L.A.R. Case No. 2/2013. Learned counsel also prayed that the appellant be permitted to file representation before the respondent authority with regard to the prayers made

in the present petition.

9. On the other hand, learned counsel appearing for the respondent-State submits that learned Single Judge has not committed any error while dismissing the writ petition filed by the present petitioner/appellant.

10. Learned counsel, therefore, urged that this appeal may not be entertained.

11. Having heard learned counsels appearing for the parties and having gone through the material placed on record, it would emerge that as per the case of the appellant, his mother was owner of the land in question which has been acquired by the Railways in the year 2002 for the purpose of particular project. It is also revealed from the record that appellant is claiming employment of his son on the basis of the policy of the Railways, copy of which has been placed on record with the compilation of the writ petition and with the counter affidavits filed before the learned Single Judge. It further transpires from the record that award was made in respect of 19 dhurs out of 2 kathas of land in favour of the mother of the appellant.

12. Learned counsel submits that after the death of the mother of the appellant, the appellant became the owner in the year 2005. Fact remains that compensation has been paid; now,

there is a dispute with regard to portion of the land in question and it has been contended that award was passed by the competent authority in favour of one Zubaida Bibi wife of Habib Mian and now the dispute is pending before the court of Sub-Judge-II, Saran at Chapra in L.A.R. Case No 2/2013. Now, claim of the appellant is yet to be examined by the competent court and then it is for the competent court to decide as to whether the competent authority has rightly awarded compensation to that Zubaida Bibi or not. Further, so far as 19 dhurs of land is concerned, it has been observed by the learned Single Judge that 80% of the compensation was awarded initially and, thereafter, 20% compensation also awarded in favour of the petitioner's mother/petitioner.

13. Learned counsel has placed reliance upon the order dated 09.02.2017 passed by learned Single Judge in CWJC No. 16760 of 2016 and contended that in the matter filed by the similarly situated person in the year 2016, the learned Single Judge entertained the said petition, whereas though the petitioner filed the petition in the year 2015, his petition came to be dismissed on the ground of delay of 13 years in filing the petition.

14. We are of the view that the aforesaid contention is

misconceived. It is required to be observed that in the order dated 09.02.2017 passed by learned Single Judge in the writ petition filed by the concerned petitioner, this Court did not examine the merits of the case of the said petitioner and the liberty was reserved to him to file representation before the concerned authority with further direction to the authority that as and when such representation is filed by the concerned petitioner, the same shall be examined on its own merits. We are, therefore, of the view that in the said petition the concerned learned Single Judge did not decide the case on merits.

15. We have considered the submissions canvassed by learned Advocates and also perused the reasoning recorded by learned Single Judge while dismissing the writ petition. We are of the view that the learned Single Judge has not committed any error while dismissing the petition. Accordingly, this appeal is required to be dismissed.

16. So far as the alternate submission canvassed by learned counsel for the appellant is concerned, we may simply observe that it is open for the appellant herein to file appropriate application before the concerned court where L.A.R. Case No. 2/2013 is pending for considering the case of the present appellant. As and when such application is filed, it is open for

the concerned court to fix the date of hearing of the said case and thereafter decide the rival claims of the parties on its own merits.

17. In view of the aforesaid, the appeal stands dismissed.

(Vipul M. Pancholi, CJ)

(Partha Sarthy, J)

Aditya/PKP

AFR/NAFR	
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