

(2013) 01 PAT CK 0108

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 23636 of 2012

Das Narain Sharma

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 04-01-2013

Acts Referred:

Citation : (2013) 2 BBCJ 494 : (2013) 2 BLJud 40

Hon'ble Judges : Mr. Rakesh Kumar, J.

Bench : Single Bench

Advocate : Mr. Pravina Kumari, Advocate, for the Petitioner; Mr. Ram Balak Mahto, Ag, for the Respondent

Final Decision : Allowed

Judgement

Mr. Rakesh Kumar, J. (Oral)—Heard learned counsel for the petitioners and Sri Krishna Chandra, learned A.C. to learned Advocate General, who appears on behalf of respondents/State.

2. Two petitioners, in the present writ petition, have prayed for directing respondents to make payment of compensation amount with statutory interest, as per Judgment and Decree passed in Land Acquisition Case Nos. 03 of 1996 & 04 of 1996 by the court of learned Special Land Acquisition Judge-III, Patna (hereinafter referred to as "Special Judge").

3. It was submitted by learned counsel for the petitioners that earlier a meager compensation amount was paid to the petitioners, but for enhancement of the compensation amount, a case was filed by the petitioners and the said case has already been allowed. Despite order passed by the competent court for making payment of enhanced amount, the respondent(s)/State is sitting tight over the matter. The petitioners have also filed execution case.

4. Learned counsel for the State at the very outset has raised preliminary objection on the point of the maintainability of the writ petition. He has argued that since judgment and decree have been passed by a competent court and an

execution case is already pending, the petitioners may not be entitled to invoke writ jurisdiction of the court.

5. In reply, learned counsel for the petitioners, while referring to a Judgment of Apex Court, reported in Air 1991 Supreme Court 1080 (Mangat Ram Tanwar And Another v. Union Of India) Has argued that in such cases, even writ court can issue appropriate direction.

6. Fact remains that land of the petitioners was acquired by the Government long back and enhanced compensation amount has been directed by the competent court. It was not disputed that no appeal against judgment passed by the learned Special Judge has been preferred by the State Government. Once direction was issued to the State Government for paying the enhanced compensation amount, the respondent, being State may not be allowed to act as private litigants and sit tight over the matter till the execution case comes to an end. If no appeal has been preferred in that event, the respondent being State is required to honour the judgment and decree of the competent court, particularly in a case where land of petitioners was acquired by the Government for public purpose long back.

7. Accordingly, the writ petition stands allowed with a direction to respondent/ State to take all steps so that the judgment and decree dated 13-08-2010 passed in Land Acquisition Case Nos. 03 of 1996 & 04 of 1996 by the court of learned Special Land Acquisition Judge-III, Patna, must be honoured within a period of two months from the date of receipt/production of a copy of this order along with proper application.

8. Accordingly, the writ petition stands allowed.