

(2010) 04 PAT CK 0207
In the Patna High Court

General Manager, NTPC

APPELLANT

Vs

Birendra Prasad Sah and Another

RESPONDENT

Date of Decision : 07-04-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 5

Citation : (2010) 04 PAT CK 0207

Hon'ble Judges : Mungeshwar Sahoo, J

Bench : Single Bench

Judgement

Mungeshwar Sahoo, J.—Heard the learned Counsel for the parties on the interlocutory applications, i.e., I.A. No. 4893/08 and I.A. No. 891/08.

2. This appeal arises out of the Land Acquisition Reference Case No. 364 of 1989. The lands of the private respondents were acquired by the State of Bihar for N.T.P.C., Kahalgaon, Bhagalpur. For realizing the decretal amount the respondent has filed Execution Case No. 2/07 pending in the court of L.A. Judge, Bhagalpur.

3. The appellant has filed these stay application under Order 41 Rule 5 of the C.P.C. praying therein to stay the further proceeding in the court below in Execution Case No. 2 of 2007.

4. The learned Counsel appearing on behalf of the appellant submitted that in similar case this Court has passed many orders and, therefore, the same order is required to be passed in this case also. Copies of the orders have been placed before this Court during course of hearing of the stay applications. The learned Counsel for the private respondents has got no objection. Accordingly, I hereby direct that the abovementioned Execution Case No. 2/07 pending in the court of the Land Acquisition Judge, Bhagalpur, shall remain stayed till the disposal of the appeal subject to payment of 50% of the enhanced amount of compensation with solatium and upto date interest within a period of 8 weeks from today.

5. In the facts and circumstances, it may be made clear that half of such deposit will be handed over to the awardee without security and the other half will be

given to him on furnishing security or bank guarantee to the satisfaction of the executing court. While depositing the amount mentioned above in the executing court the amount already deposited as stated by the appellant in the court below will be permitted to be adjusted. The learned Counsel for the appellant submitted that he has already deposited 50% of the awarded amount. If such is the fact then the learned executing court shall examine the same and if not deposited the rest of the amount must be deposited within the said period.

6. With the aforesaid direction these interlocutory applications are disposed of.

7. Learned Counsel for the respondents at this stage submitted that additional amount as directed by the Hon"ble Supreme Court in the case reported in 2007 (1) C.L.T. 497 may also be directed to be deposited. So far this matter is concerned since this Court has stayed many other execution cases in interlocutory matters wherein no such condition has been imposed for staying further proceeding. I am not inclined to impose such condition in this case.