
(2016) 04 PAT CK 0007

In the Patna High Court

Case No : Letters Patent Appeal No. 161 of 2015, Arising out of Civil Writ Jurisdiction Case No. 17849 of 2011

Smt. Urmila Devi

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 18-04-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 11

Citation : (2017) 1 PLJR 559

Hon'ble Judges : Mr. Hemant Gupta and Mr. Ahsanuddin Amanullah, JJ.

Bench : Division Bench

Advocate : Mr. Hari Shankar Roy, Advocate, for the Appellant; Mr. P.N. Sharma, A.C. to A.G, for the State

Final Decision : Dismissed

Judgement

Mr. Hemant Gupta, J. (C.A.V.) - I.A. No. 733 of 2015

The application is for condonation of delay of 27 days in filing the present Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory Application, we are satisfied that the appellant has shown sufficient cause to seek condonation of delay of 27 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 733 of 2015 is allowed and delay of 27 days in filing the Letters Patent Appeal is condoned.

L.P.A. No. 161 of 2015

Heard learned counsel for the appellant and the respondents.

4. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 25th of September, 2014 in C.W.J.C. No. 17849 of 2011, whereby the writ application claiming compensation stands

dismissed.

5. The grievance of the appellant is that she is owner of Khata No. 113, Plot No. 2084, area 4 Kathas 5 Dhurs of Mauza-Behta (Araji Jagat), Thana No. 184, P.S.- Benipatti, District-Madhubani. It is alleged that the possession of the land has been taken by the respondents in the year 1988 for the purpose of construction of Sub Divisional Office, Benipatti but till date compensation has not been paid to the appellant.

6. The appellant asserts that acquisition is not complete until and unless compensation is paid and land cannot be said to be acquired. Appellant did mention at one place that she has purchased the land but the date of purchase and the name of the vendor has not been disclosed in the writ application.

7. In the counter affidavit, it is averred that the appellant has purchased the land in the year 1991 by virtue of registered Deed from one Uday Narayan Jha. After the purchase, the name of the appellant was entered in the revenue record and compensation of Rs. 4671.39/- was found to be payable to the owner of the land in question in Award No. 484 for the year 1987-88. It is averred that the respondents were ready to pay the amount since 1993 but no one turned up for taking payment and lastly the appellant refused to receive payment in the year 2011.

8. Learned counsel for the appellant refers to a Division Bench judgment of this Court reported as M/s. Rambahadur Thakur & Co. v. The Government of Bihar and another 1986 PLJR 958 to contend that the land does not vest with the State unless possession is taken.

9. We have heard learned counsel for the parties and find no merit in the Letters Patent Appeal. The appellant has invoked the writ jurisdiction of this Court after acquisition of land which vested with the State Government after announcing the Award in the year 1987-88. The other co-owners have been paid compensation but in respect of the appellant, it is asserted that name of the land-owner is not recorded in the revenue record. Firstly, the documents in respect of Plot No. 2084 were demanded from the recorded raiyat Kishun Yadav and Surya Narayan Jha. Kishun Yadav received notice but notice meant for Surya Narayan Jha came back with a report that he is dead and there is no other member in the family. On the basis of the purchase of the land by the appellant, her name stands recorded on the direction of the Collector on 9th of March, 2011. The appellant was informed to take compensation of Rs. 4671.39. Notice was received by one Kripa Nand Jha on behalf of the appellant.

10. The Hon''ble Supreme Court in a judgment reported as (2013) 5 SCC 427, Rajasthan State Industrial Development and Investment Corporation v. Subhash Sindhi Cooperative Housing Society, Jaipur and others (2013) 5 SCC 427 has held that a purchaser of land has no right to dispute the acquisition. The relevant extract from the judgment reads as under :-

"13. There can be no quarrel with respect to the settled legal proposition that a purchaser, subsequent to the issuance of a Section 4 notification in respect of the land, cannot challenge the acquisition proceedings, and can only claim compensation as the sale transaction in such a situation is void qua the Government. Any such encumbrance created by the owner, or any transfer of the land in question, that is made after the issuance of such a notification, would be deemed to be void and would not be binding on the Government. (Vide *Gian Chand v. Gopala*, *Yadu Nandan Garg v. State of Rajasthan*, *Jaipur Development Authority v. Mahavir Housing Coop. Society*, *Jaipur Development Authority v. Daulat Mal Jain*, *Meera Sahni v. Lt. Governor of Delhi*, *Har Narain v. Mam Chand* and *V. Chandrasekaran v. Administrative Officer.*)"

11. We do not find that the appellant can be permitted to raise the plea of non vesting of land since she is a purchaser of the land after the notification to initiate the acquisition process. The only grievance is nonpayment of compensation, but appellant, who has purchased land in the year 1991, after the acquisition of land in the year 1987-88, cannot be permitted to raise a grievance regarding non-payment of compensation, that too, after more than 20 years.

12. Still further, the land was acquired when the Award was announced in the year 1987-88 but neither the vendor of the appellant nor the appellant was recorded as owner till the year 2011. Thereafter, the compensation has been offered to the appellant but she has not received the same.

13. In view thereof, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra court appeal.

14. The Letters Patent Appeal is, thus, dismissed.

Ahsanuddin Amanullah, J. - I agree.