
(2003) 04 PAT CK 0020
In the Patna High Court
Case No : L.P.A. No. 899 of 2002

State of Bihar and Others	Vs	APPELLANT
Shivji Singh and Others		RESPONDENT

Date of Decision : 18-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 04 PAT CK 0020

Hon'ble Judges : Rajendra Prasad, J; Nagendra Rai, J

Bench : Division Bench

Advocate : R.K. Sinha, for the Appellant; Sheela Sharma, for the Respondent

Judgement

1. These appeals are barred by limitation. After having heard learned counsel for the parties and taking into consideration the averments made in the limitation petitions, the delay in filing the appeals is condoned and the limitation petitions are thus allowed.
2. The State of Bihar and its officers are the appellants and they have filed the present appeals challenging the order dated 29.4.2002 passed by the learned Single Judge in CWJC Nos. 586 and 641 of 2002 filed by the decree holders/writ-petitioners-respondents whereby direction has been issued for payment of decretal dues within a period of six months though the execution case is pending.
3. Admitted facts are that the lands of the writ petitioners-respondents were acquired by the State Government and awards under the provisions of the Land Acquisition Act were prepared. The writ petitioners-respondents objected to the amount of compensation and the matter was referred to the Civil Court and the Civil Court has passed the judgments and decrees in their favour enhancing the amount of compensation. When the State did not pay the amount of compensation to the writ petitioners-respondents they levied the execution case which has not been disposed of as yet. As there was delay in disposal of the execution proceeding the writ petitioners-respondents filed the writ petitions

before this Court which has been allowed as stated above.

4. The question for consideration is as to whether this Court will issue direction to the State Government to pay the amount of compensation. No doubt, the power under Article 226 of the Constitution of India is very wide and the Court can interfere to correct any error even the error done by the subordinate Courts but the question is whether when the matter is pending before the Civil Court and the party has already taken recourse provided under the Code of Civil Procedure, power of writ provided under Article 226 of the Constitution of India is to be exercised or not. Article 226 is not inserted to provide alternative method of redressal of the grievances which can be done by following a normal procedure. In the present case admittedly the execution cases have been filed before the Civil Court for payment of compensation amount. In such a situation if at this stage this Court will issue writ then the execution case will become in fructuous. In our view no direction can be issued for payment of compensation amount when the writ petitioners-respondents have already taken recourse to other effective remedy available in law. However, it is made clear that though this Court will not pass order for payment of amount of compensation but at the same time the State cannot be allowed to withhold the amount of compensation awarded under the Land Acquisition Act for indefinite period. This Court can issue direction to the Executing Court to execute the decree within stipulated period by taking recourse to the provisions provided under the Code of Civil Procedure. Thus, this is one of the cases in which in our view immediate direction has to be issued to the Court below. Accordingly, the Court below is directed to execute the decree within a period of three months and report this Court about the result of the execution proceedings.

5. In the result, the order of the learned Single Judge is set aside and the Executing Court is directed to execute the decree within a period of three months from the date of receipt/production of a copy of this order and in case the payment is not made he can attach the Government property so that the order of this Court is carried out within the aforesaid period. The appeals stands disposed of with the aforesaid direction.