

(1994) 02 SC CK 0015

In the Supreme Court Of India

Case No : C.A. No. 1577-1600 of 1994 (Arising out of SLP (C) No's. 18225-28 of 1993)

Bihar State Electricity Board

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 21-02-1994

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Land Acquisition Act, 1894 — Section 18, 19, 20, 3, 50

Citation : (1994) 2 SCALE 355 : (1994) 3 SCC 743 Supp

Hon'ble Judges : K. Ramaswamy, J; B. L. Hansaria, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Special leave granted.

2. All these appeals arise from judgment of the Patna High Court dated 22.7.93 in C.W.J.C. No. 5986/93 and other matters in which it was held that the Writ Petitions are not maintainable. The question that arises in these appeals is whether the appellant-Board is a person interested within the meaning of Section 3(b) of the Land Acquisition Act, 1894 (for short the "Act").

Section 3(b) reads thus:

3(b) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land

Section 3(cc) reads as under;

3(cc) the expression "Corporation owned or controlled by the State" means any body corporate established by or under a Central, Provincial or State Act, and includes a Government company as defined in Section 617 of the Companies Act,

1956, a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, being a society established or administered by Government and a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, being a co-operative society in which not less than fifty-one per centum of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments.

Section 3(f) reads thus:

3(f) the expression "public purpose" includes -

- (i) the provision of village sites, or the extension, planned development or improvement of existing village-sites;
- (ii) the provision of land for town or rural planning;
- (iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object or securing further development as planned;
- (iv) the provision of land for a corporation owned or controlled by the State;
- (v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;
- (vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or, with the prior approval of the appropriate Government by a local authority, or a society registered under the 25 Societies Registration Act, 1860, or under any corresponding law, for the time being in force in a State, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State;
- (vii) the provision of land for any other scheme of development sponsored by Government, or with the prior approval of the appropriate Government, by local authority;
- (viii) the provision of any premises or building for locating a public office but does not include acquisition of land for Companies.

3. The State Government by its notification dated 8.4.81 published under the State Gazette, exercised the power u/s 4(1) of the Act, acquired the land in village Ambari for a public purpose, namely, for construction 33/11 KV Mohania

Sub-station and staff quarters. A declaration to that effect was also published in the State Gazette on May 17, 1984 re-iterating that the afore-station lands are required for the above public purpose. Thus, it is clear that the public purposes envisaged was of construction of 33/11 KV Mohania Sub-Section and staff quarters on public expenditure. The question therefore is whether the appellant-Board is a person interested. A reading of the definition Section 3(b) read with Section 19(1)(b) and the particulars to be referred to the names of the persons who was interested in such land and Section 20 namely of persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded, and Section 50(2) of the Act namely "that is any proceedings held before a Collector or a court in such cases, the local authority or the Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation" would clearly indicate that appellant-Board is a person interested in adducing the evidence to determine the market value of the acquired land. This Court in *Himalayan Tiles and Marble (P) Ltd. v. Francis Victor Coutinho* while considering the scope of the definition of "person interested" held that the expression must liberally be construed so as to include local authority or a Company for whose benefit land was acquired or compensated. Such a person is interested both in the title to the property as also in the compensation paid to it. Therefore, both these factors concern the future course of action and if decided against him seriously prejudice high rights. In *Neelagangabai v. State of Karnataka*, the same view was reiterated and writ w petition was held maintainable.

4. Though the learned Counsel for the respondent has contended that the person interested would be only in respect of the claimants whose title is sought to be divested by compulsorily acquisition and are interested in determining the proper compensation payable to the acquired lands, are that liberal interpretation is not warranted, does not held water in the light of the law laid by this Court.

5. Accordingly, we held that the appellant is a person interested within the meaning of Section 3(b) and Section 50(2) read with Section 19(b) and 20(b) of the Act. Accordingly, the High Court is not right in holding that the appellant is not person interested in the acquisition proceedings initiated and acquired for its benefit. The writ petitions are maintainable at its instance. That apart, the appellant is not only a necessary party but also a proper party under Order 1 Rule 10 C.P.C. The appeals are accordingly allowed. There shall be a direction to make the appellants as a party-respondent to the pending appeals, instead of quashing the award and decree in the reference u/s 18 of the Act. The High Court would deal with the appeals. It is open to the appellant to raise all those objections available to it and raised in these appeals. It is stated by the learned Counsel for the respondent that the amount has already been deposited. If that be so, liberty is given to withdraw the same on furnishing security to the satisfaction of Special Judge, Bhagwa, Rohtas. The appeals are accordingly allowed. No costs.