

(2006) 12 PAT CK 0023
In the Patna High Court
Case No : CWJC No. 12377 of 2005

Budha Colony Sangharsh Samiti	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 13-12-2006

Acts Referred:

Bihar Regional Development Authorities Act, 1981 — Section 85

Citation : (2007) 1 PLJR 230

Hon'ble Judges : Narayan Roy, J; Abhijit Sinha, J

Bench : Division Bench

Advocate : Ganesh Pd. Singh, Bishnu Kant Dubey, Panchu Ram, for the Appellant; P.K. Shahi For the State, M/s Nilu Agrawal and Manoj Kumar For The PRDA, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard counsel for the parties. By filing this Public Interest Litigation the petitioner, who represents the residents of Buddha Colony, Patna, has prayed for issuance of a writ of mandamus commanding upon the respondents not to handover the land in question to Buddha Grih Nirman Sahyog Samiti (hereinafter to be referred to as "Samiti"), respondent No. 9, as it would be prejudicial to the interest of residents of Buddha Colony.

2. The matter, which has been raked up by this PIL application, has a chequered career. The questions involved in this application were examined time without number by this Court and also by the Apex Court and despite issuance of necessary directions, the land acquired for public purpose could not be utilised, as it appears from the materials on record and the counter affidavits filed on behalf of the respondents.

3. It appears that a vast chunk of land measuring 57.714 acres situated in Buddha Colony in Patna town was acquired under the provisions of the Bihar Land Acquisition Act and a declaration in this regard was published in Bihar

Gazette (Extra-ordinary) dated 7.10.1961 giving the same in possession of the Patna Improvement Trust for public purpose, particularly for development of the town of Patna. Subsequently, the Patna Improvement Trust was taken over by the Patna Regional Development Authority (hereinafter to be referred to as "PRDA") by virtue of the Bihar Regional Development Authority Act, 1974 (hereinafter to be referred to as "Act").

4. PRDA in its turn handed over part of the acquired land measuring 25.09 acres to the Samiti, respondent No. 9, by virtue of an agreement entered into respondent No. 9 and the State of Bihar and thereafter a proposal was again given by the Samiti, respondent No. 9, for handing over further acquired land measuring 32.48 acres. A decision thereafter was taken by the Improvement Trust in 1967 to transfer 32.48 acres of land in favour of the Samiti, respondent No. 9 to utilise the land under acquisition for development of the town of Patna. However, the position remains as it is, as encroachment from the lands could not be removed. The PRDA through paper publication on 9.2.1996 published a notice for removal of encroachment from the acquired land, which, ultimately, was quashed by this Court by virtue of the orders passed on 3.6.1996 in C.W.J.C. No. 2591 of 1996 and analogous cases. Thereafter the PRDA filed Eviction Suits under the provisions of Section 85 of the Act and the litigation thereafter continued.

5. The grievances of the writ petitioner, however, appear to be against the decision of the PRDA to handover part of the acquired land to the Samiti, respondent No. 9.

6. It is contended by learned counsel for the petitioner that the PRDA has decided to handover the acquired land to the Samiti, respondent No. 9, in contravention of the provisions of law and also prejudicial to the interest of the inhabitants of the area, particularly who have constructed their own buildings after due approval of the PRDA.

7. It is admitted fact that the lands in question were acquired some time in the year 1961 for a public purpose and the object of the same till date has not been achieved. Several sets of litigations were fought in between the parties, but the position could not improve. In one set of litigation, the Apex Court while disposing of Civil Appeal Nos. 7803 and 7820-21 of 1995 observed that it is distressing to note that the land acquisition proceeding, which was initiated for a very laudable purpose, more than 37 years ago, is not yet complete and, thus, a laudable and noble cause is delayed for more than three decades, under one pretext or the other.

8. On appreciation of necessary facts, as placed on records and the pleadings of the parties, it is also admitted position that many permanent structures have come up over the land in question since long and now a decision has been taken by the PRDA and the State Government to handover the entire area of the acquired land to the Samiti, respondent No. 9.

9. From the tenor of the prayer of the writ petitioner, it appears that residents of the area are opposed to the decision of the PRDA in handing over the land in question to the Samiti, respondent No. 9, who in turn would proceed in the matter according to its own bye-laws, which may be prejudicial to the interest of the general public of the area.

10. To achieve the object of the acquisition, in our opinion, the matter should be accelerated by the authorities concerned, but, at the same time, they should also keep in mind the interest of the persons of the area, who are living there by raising permanent structures for several years with the approval of the PRDA. At this juncture, therefore, it would not be appropriate to dislodge them from their legitimate claims and to safeguard their interest the respondent authorities may direct the Samiti, respondent No. 9 to offer membership to such persons, who have raised their permanent structures since long and if they are so desirous they should be allowed to become members of the Samiti, respondent No. 9, on the conditions laid down in the bye-laws of the Samiti, to whom the land was proposed to be handed over.

11. in the background of the case and at the face of several orders passed by this Court and the Apex Court and also keeping in view the fact that the object of acquisition of land could not be achieved till date, in our considered opinion, no further indulgence would be needed in the matter at this stage. In the result, this application is dismissed with the directions/observations aforesaid.