

(1997) 08 PAT CK 0055
In the Patna High Court
Case No : C.W.J.C. No. 5567 of 1995

Dharmendra Kumar Verma and Others	APPELLANT
Vs	
State of Bihar and Others	RESPONDENT

Date of Decision : 04-08-1997

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 4(1), 6

Citation : (1997) 2 PLJR 617

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Advocate : Tara Kant Jha, for the Appellant; Surendra Kumar Singh, for P.R.D.A., for the Respondent

Judgement

Aftab Alam, J.—The Petitioners in this application seek a direction restraining the Respondents from interfering with the Petitioners' possession over their respective pieces of lands. The lands which Petitioners 1 and 2 claim to own and possess are described in paras 3 and 4 of the writ petition, those claimed by Petitioners 3, 4 and 5 in para 5 and those claimed by Petitioners 6, 7 and 8 in para 7 of the writ petition.

2. The disputed lands formed the subject matter of a land acquisition proceeding at the instance of the P.R.D.A. for the public purpose of developing Transport Nagar, The land acquisition proceeding was challenged before this Court-by several persons including the present Petitioners. It is stated in para 8 of the writ petition that the Petitioners 1 and 2 filed CWJC No. 2408/1985 while CWJC No. 125/1986 was filed by Petitioners 4, 5, 6, 7 and 8 and the husband of Petitioner No. 3. Those two writ petitions were heard by a bench of this Court along with some other similar writ Petitioners. By judgment and order dated 22.1.1991 those writ petitions were allowed primarily on the ground that notification appertaining to the impugned acquisition proceeding were published in the district gazette and not in the official gazette of the State of Bihar. The judgment held that the district gazettes published by the Collector of the districts could not

be treated to be the official gazette of the "State and the notifications under Sections 4 and 6 of the Land Acquisition Act, not having been published in the official gazette did not, therefore, fulfill the statutory requirements and were accordingly liable to be quashed. Having thus allowed the writ petitions by quashing the notifications issued u/s 4 of the Act, the judgment went on to leave it open to the State Govt, to issue fresh notifications under the provisions of the Act and to start a fresh acquisition proceedings in accordance with law. For the sake of convenience hereinafter this division Bench judgment is referred to as the judgment in Arunodaya.

3. Soon after the judgment a review petition was filed on behalf of the P.R.D.A. which was registered as Civil Review No. 21/1991. This review petition was disposed of by order dated 13.9.91 passed by the same Bench which had earlier allowed the batch of writ petitions including the two writ petitions filed on behalf of the present Petitioners. The order passed in the review case was as follows:

Having heard the learned Counsel for the parties, the Review applications are being disposed of in the following terms:

It is made clear that the orders passed in all the writ applications being CWJC Nos. 5016/85, 2408/85, 3676/85, 125/85, 2306/85, 13/86 and 2008/85 shall be confined only to the lands owned by the Petitioners in the respective writ applications.

4. Thereafter the question whether the publication of the notifications under Sections 4 and 6 of the Act in the district gazette satisfied the statutory requirements of publication of the notification in the official gazette came up for consideration before a Full Bench of this Court in Tribhuvanpuri Sahkari Griha Nirman Samiti Ltd. and Vivek Nagar Griha Nirman Sahkari Sahyog Samiti Ltd. and Brajendra Kumar Singh and Others Vs. The State of Bihar and Others . The Full Bench by a majority decision came to the conclusion that publication of notification u/s 4(1) of the Land Acquisition Act in the district gazette was sufficient compliance of the provisions of "the Act and that the division Bench decision in the case of Arunodaya Sahkari Grih Nirman Samiti Ltd. did not interpret the law correctly.

5. It must be clarified at this stage that though the Full Bench considered the same point, that point arose in different cases" filed by different parties in respect of different land acquisition proceedings. But so far as the present Petitioners are concerned, their case had attained finality by virtue of the operative order passed in Arunodaya. It must, therefore, be understood that what the Full Bench decision overruled was the interpretation of law made in the division Bench judgment in Arunodaya. It did not as it could not upset the operative order made in the judgment in Arunodaya.

6. Even after the decision by the Full Bench in the case of Tribhuwan Sahkari Grih Nirman Samiti Ltd. no attempt was made either by the State Govt., or by the P.R.D.A. to file a petition for review of the decision of the division Bench in the

light of the later Full Bench decision. It is, therefore, apparent that though according to the Full Bench decision, the division Bench judgment in Arunodaya did not lay down the correct law on the question of publication of notifications in the district gazette, it nevertheless concluded the list so far as the present Petitioners and the present Respondents are concerned. It may also be noted that despite the specific liberty given in the judgment in Arunodaya, no steps were taken to start afresh a proceeding for acquisition of the, "lands on the lines indicated in that judgment. The only conclusion, therefore, is that as long as the order passed by the division Bench in Arunodaya is not set aside, recalled, modified or changed or as long as the disputed lands are not taken into acquisition by initiating a fresh proceeding, the Respondents cannot be allowed to interfere with the Petitioners' ownership and possession over the lands in question.

7. Before concluding this order, it may be recorded that Mr. Surendra Kumar Singh, learned Counsel appearing for the P.R.D.A. intimated that the Authority now proposed to file a petition for review of the division Bench decision of this Court in Arunodaya in the light of the Full Bench decision in the case of Tribhuwan Sahkari Grih Nirman Samiti Ltd. It is, accordingly, made clear that this order will not come in the way of the P.R.D.A. in filing a review petition against the division Bench judgment or to seek such remedy as may be available to it in accordance with law. In case the review petition is filed, it is needless to say that it will be disposed of in accordance with law and on its own merits. To remove any further doubt, it may also be observed that in case by a subsequent order or judgment by a competent Court the earlier division Bench judgment of this Court in Arunodaya Sahkari Grih Nirman Samiti Limited is set aside, recalled, modified or changed in any manner, it will be open to the Authority to act in accordance with the later order passed by the Court.

8. This writ petition, thus, stands disposed of with the aforesaid observations and directions.