
(2014) 05 PAT CK 0002
In the Patna High Court
Case No : CWJC No. 19722 of 2013

Janki Devi

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 06-05-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 17(4), 30, 4, 6

Citation : (2014) 4 PLJR 190

Hon'ble Judges : Navaniti Prasad Singh, J

Bench : Single Bench

Advocate : Manish Kumar, Advocate for the Appellant; Lalit Kishore, Nilu Agrawal and J.K. Sinha, Advocate for the Respondent

Judgement

Navaniti Prasad Singh, J.—This case shows how State exchequer is plundered because of negligence either deliberate or otherwise of State officials. This is so merely because there is absolutely no answerability. At the request of the court Sri Lalit Kishore, the Principal Additional Advocate General appeared on behalf of the State. Counter affidavit, supplementary counter affidavit has been filed with rejoinder thereto. There is an intervention application as well being I.A. No. 1118/2014. Before proceeding further it is appropriate to dispose of the interlocutory application. By the interlocutory application, the interveners claim that the petitioner has received more than her share of compensation. The interveners are nephew of the petitioner. In my view this is a dispute with regard to apportionment of compensation which dispute can only be dealt with under Section 30 of the Land Acquisition Act (hereinafter referred to as "the Act"). If the interveners have any grievance in that regard, it is open to them to make an application in terms of Section 30 of the Act before the appropriate authority. It is not that they were not aware of the proceedings. Notices had been issued to them,. This can only be appropriately dealt with under Section 30 of the Act and not in these writ proceedings.

2. Now coming to the main grievance of the petitioner. Undoubtedly Land

Acquisition Case No. 32/2006-07 was initiated by the Special Land Acquisition Officer, Patna for acquiring substantial lands for establishing the Storm Water Drainage System in respect of N.T.P.C. at Barh. The notification under Section 4 with aid of Section 17(4) of the Act was issued on 4.1.2007 followed by declaration under section 6 which notification was published on 5.1.2007. Regrettably though the law is that after paying or at least tendering payment of 80% compensation, possession can be taken, what was done was just reverse. On 24.7.2007 possession was taken without payment of a single farthing. 80% compensation was paid to the petitioner some time in the year 2008. Petitioner's grievance is that while paying 80% compensation, no compensation was calculated in respect of trees that were standing on the aforesaid land. The balance 20% is also yet to be paid even though over seven years have elapsed.

3. Learned Principal Additional Advocate General fairly conceded that whenever acquisition proceedings are taken up for third party, not being State Government, the entire award money which is to be paid is taken in deposit before, in advance. It is not explainable as to why immediately 80% as envisaged in law was not paid and even after payment of 80% why was balance 20% not paid when all this had been received prior to notifying the acquisition. To my mind the answer lies elsewhere. There is a premium to be collected for payments to be made. Therefore, even though money is available, it is not immediately paid. There being no answerability, no officer suffers as would be shown it is public who suffers, whose land is acquired and public who pay tax. As noticed above, possession was taken on 24.7.2007 and the law envisages payment of 80% compensation prior to taking of possession. As the Principal Additional Advocate General states that money was there but what we see is that 80% is paid to some in 2008, to some in 2009, to some in 2010 and thereafter there is no money to pay the balance 20%.

4. Now to the effect thereof. The effect of this delay in payment is accumulating interest liability. I may only refer to the letter of the Special Land Acquisition Officer to the Revenue Department as appended to the writ petition in which it is now stated that the balance outstanding 20% payment is about Rs. 24 lakhs and by virtue of delay the interest liability has accumulated to Rs. 27 lakhs. As N.T.P.C. has already deposited the entire amount well in advance, N.T.P.C. cannot be made liable for this delay on the part of the State. Thus, it is State exchequer that would be liable to this interest of Rs. 27 lakhs which it realizes from the public tax payer.

5. Who caused the delay, what was the consideration for causing the delay, it is not matter in this case. That is a sad reflection. As noted above, if the money had been deposited by the N.T.P.C. way before the acquisition proceeding were initiated, who held back the money, why was not the compensation paid accordingly immediately. All this can be answered only in one line. People were waiting at different stages for payment of speed money. They have no answerability. In such situation I am left with no option but to issue mandamus

to the State to pay the balance 20% along with interest and other statutory dues up to date within two months from the date of production of a copy of this order before the Collector-cum-District Magistrate, Patna. All other claimants entitled to the balance 20% under this acquisition proceeding would also be liable to be similarly paid within a period fixed aforesaid.

6. From the letter of the Land Acquisition Officer, it is apparent that so far as trees which were on petitioner's land, a fact which is not disputed, compensation is yet to be calculated. That along with the interest and other statutory charges has to be paid to the petitioner within the said statutory period. I may also refer to the letter dated 28.4.2014 of the Principal Secretary, Government of Bihar in the Department of Revenue and Land Reforms (Directorate of Land Acquisition) to all the Collectors wherein it has been directed that all balance 20% in respect of all the proceedings must be paid forthwith. This letter has been placed on record by the Principal Additional Advocate General today.

7. In my view, the facts noted above is not a stray case. This court has repeatedly come across cases where balance 20% is being withheld with obvious reason as indicated above. I direct the Collector-cum-District Magistrate, Patna to start appropriate proceedings against the persons responsible for the delay in payment of balance 20% and conclude those proceedings within six months. Any person found responsible for having caused the delay would be liable to be burdened with interest that the State has to pay to the persons who are being compensated under the proceeding. Unless answerability is fixed, this malady cannot be eradicated.

8. Let a copy of this order be sent to the learned Chief Secretary, Government of Bihar and the Principal Secretary, Government of Bihar in the Department of Revenue and Land Reforms for necessary corrective actions so that the State exchequer is not plundered in this irresponsible manner with fixing responsibility and answerability. With this observation and direction, the writ application stands disposed of.