
(2004) 07 PAT CK 0123
In the Patna High Court
Case No : C.W.J.C. No. 4259 of 2002

Manoj Kumar Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 16-07-2004

Acts Referred:

Citation : (2004) 07 PAT CK 0123

Final Decision : Dismissed

Judgement

Ravi S. Dhavan, C.J.

On I.A. No. 4827 of 2002

1. The Petitioner Manoj Kumar Singh filed a Public Interest Litigation by bringing in a writ petition C.W.J.C. No. 4259 of 2002 Manoj Kumar Singh v. The State of Bihar and Ors. This petition was filed on 13 February, 2002. He joined the proceedings. He showed his bona fides that he was interested in protecting the environment and ecology; that the park known as Harding Park has its conforming use as a park only that it cannot be given for commercial purposes, for instance, rented out to a circus; that the High Court had already held it so in its order of 24 April, 1997 (C.W.J.C. No. 2936 of 1997); that "there can be no justification for the circus to occupy the park land for a long period."

2. On the writ petition of Manoj Kumar Singh the Court gave a declaration in its order dated 16 May, 2002 that the park must see a dedicated plan to restore it for the purposes for which it was created. The Court indicated that the area which is occupied by the Harding Park was virtually a memorial for the Viceroy to give Patna a public park. That it was to be laid out as a park and, in fact, it was dedicated as a park is clear from the archives which the Court had examined the record of which is reproduced in its order of 16 May, 2002. Once the land was conformed for use as a park it clearly came within the ambit of a legislation known as the Bengal Park Act (Bengal Act 2 of 1904). This is also mentioned in the order of 16 May, 2002.

3. Harding Park has been misused and the power of the district administration has been abused to let this park out for commercial purposes. The very document which created the park had invested the management of the park in a trust known as Harding Memorial Committee. The only purpose of this Committee was to preserve the area for the benefit of public and as a park and no other. This Committee was nothing but an imperial camouflage to save a respectable Zamindar of Raj days, the Raja of Darbhanga, from indignity of facing acquisition proceedings. Whether it was persuasion or not, the Raja of Darbhanga was required to give certain track of land on the visit of the Viceroy, in the style of an imperial darbar. Thus, at the expense of other people and to avoid paying compensation as a consequence of acquisition, a donation of land was arranged. The land gifted by Raja of Darbhanga had vested with the State. To give it a semblance of responsibility that the Raja of Darbhanga had a part in the management, the Harding Memorial Committee was arranged. But whether the land was acquired or not the only relevant aspect is that a public park was created. Once the land passed into the hands of the public as a public trust, it cannot be restored to the heirs of the erstwhile Raja. That all this was the result of loyalties shown to the imperial Raj, the Viceroy when he came to Patna, and to dedicate a public park is history. Public park it has been and public park it will remain.

4. In the circumstances, it is not understood why would the Petitioner bring a public interest litigation seeking a declaration from the High Court that it is a public park and thereafter file an application to withdraw the petition. This is not the purpose of a public interest litigation. Once a person has informed the Court about a public cause he may come or he may not come, the cause has to be judged. The withdrawal seems like a vested interest at work on the Petitioner.

5. The land which constitutes Harding Park is as good as public land. It has to be protected. It is not the private preserve of the Harding Memorial Committee. The Committee only acted as public trustees. The personal representation of the persons named originally is now only of an academic interest. But, such of those who represent the trust in an ex officio capacity must realise that they have a duty to protect public land as a park; a dedicated intention of the public trust.

6. The confines of Harding Park are not meant for shops, circus or a bus stand, which the Court is given to understand, has now been removed. This park, laid out as a park and a garden be restored as such. To ensure the greenery of the park the land Wound this park, a radius of fifty meters, should also see an effort to plant greenery, if it is government land then trees must be [planted because a tree supports a tree; this is what the delicate balance of environment is about. If the land which comes within this radius of fifty meters may be occupied [by private estates then the State of Bihar is bilged to encourage the private holders of the land to put trees within their compounds. There must be a joint effort to want greenery in and around Harding park. Simultaneously the park must see an effort remove all concrete, cement and mortar. me park must be restored to

nature and image on the mud of the ground. It may be pictured as a seasonal garden. The domino purpose should be a park. Recently, me Hon''ble frame Minister showed concern on the rapid and unplanned growth of urbanisation. An extract from the speech of Hon''ble Prime Minister to the nation is reproduced:

A striking feature of development in our country has been the rapid increase in urbanization. There are now more than 30 cities with a population of more than one million. The rapid and unplanned growth of these cities has contributed to increased urban pollution, crime and absence of the required infrastructure like access to drinking water, sanitation, roads, footpaths for pedestrians and public spaces, parks and greenery is making life in urban India living hell for many. Most of the responsibility for this rests with States and Municipal Governments. It will be our effort to give special attention to policies that can encourage urban development and urban renewal. We will actively seek public-private partnership in building urban infrastructure in a planned manner.

7. If this is not enough, as a programme for execution by those who run the government then they are reminded of the recent decisions of the Supreme Court for preserving a park. These are in the matters re Bangalore Medical Trust Vs. B.S. Muddappa and others, Dr. G.N. Khajuria and others Vs. Delhi Development Authority and others, and M.I. Builders Pvt. Ltd. Vs. Radhey Shyam Sahu and Others,

8. Harding Memorial Committee will be well advised to take up its effort to keep a watchful eye that Harding Park is conformed for use as a public park and no other. Patna has already lost its open spaces. Little effort is required for the benefit of ordinary people and their children to breath in fresh air. Gardens are not the preserve of the rich.

9. In the circumstances, the question of permitting withdrawal of the petition on which the Court has shown its concern for protecting environment and the balance of ecology, does not arise.

10. I.A. No. 2827 of 2002 is rejected.

R.N. Prasad, J.

11. I agree.