

(1972) 01 PAT CK 0006

In the Patna High Court

Case No : Civil Revision No's. 920 and 921 of 1970

Panchi Paswan and Others

APPELLANT

Vs

Premlal Khan and Another

RESPONDENT

Date of Decision : 06-01-1972

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10(2)

Citation : AIR 1972 Patna 218

Hon'ble Judges : N.L. Untwalia, J

Bench : Single Bench

Advocate : S.C. Ghose and Kalyan Kumar Ghose, for the Appellant; Tarakant Jha, for the Respondent

Final Decision : Dismissed

Judgement

N.L. Untwalia, J.—These two Civil Revision applications are by the same set of petitioners. In Land Acquisition Case Nos. 10 and 12 of 1969, pending in the Court of the Subordinate Judge at Madhipura, the petitioners applied under Order 1, Rule 10, CPC to be added as parties as those lands belong to them and they were entitled to the compensation money. The learned Subordinate Judge has rejected their applications. They have, therefore, come up to this Court in revision.

2. Prima facie, the learned Subordinate Judge has held that the petitioners have no claim to the land or the compensation money. That apart. I think, they are not entitled to be added as parties to the land acquisition cases. They had not made their claims before the Collector. It may well be that no notice under the Land Acquisition Act, 1894, hereinafter called the "Act", was served on them. Yet as pointed out by the Supreme Court in Dr. G.H. Grant Vs. State of Bihar, , they could ask the Collector to make a reference u/s 30 of the Act. If they would have raised a dispute before the Collector earlier, they had a right to ask him to make a reference u/s 18 of the Act. But in these two references made at the instance of different persons, they cannot come and say that they are entitled to the

compensation money as they are the owners of the land acquired and, therefore, they should be heard and the Civil Court awards should be made in their favour. They may have their right to pursue the matter in a properly constituted civil suit by claiming the money from the person who, according to them, has wrongly taken it, but that is a different matter. In support of the view I have expressed above, I may make reference to three decisions of the Calcutta High Court namely, Mahananda Roy v. Srish Chandra Tewari, 7Ind. Cas. 10; Manjur Ahmed and on his death his heirs and legal representatives, Akhtari Bibi and Others Vs. Rajlakshmi Dassi and Others, and Indumati Debi Vs. Tulsi Thahurani and Others, .

3. Mr. S. C. Ghose, learned counsel for the petitioners, urged that the petitioners were the persons whose interest would be affected by the decision in the land acquisition cases and, therefore u/s 21 of the Act, they ought to have been heard. In support of this point he placed reliance upon the decision of the Supreme Court in Sunder Lal Vs. Paramsukhdas, . The facts of the Supreme Court decision are different and the ratio of the case is distinct. There a person claiming to be added who was not added by the Land Acquisition Court, but was added by the High Court in revision, was the attaching creditor of the compensation money. The question before the Supreme Court was whether a person who had no interest in the land, but was claiming interest in the compensation money only could be said to be a "person affected by the decision within the meaning of Section 21 of the Act. In agreement with the High Court, the Supreme Court held it to be so. Paramsukhdas was claiming to be the attaching creditor of Sunderlal in that case. Here the petitioners are claiming in their own right to be the owners of the land and, therefore, entitled to the compensation money. Their remedy was to approach the Collector, and not come directly to the Land Acquisition Court for being added as parties in the reference cases instituted at the instance of other parties. As I have said above, they may have a right to go to the Civil Court, but that apart I am definitely of the opinion that for the reasons given by the learned Subordinate Judge as also for the additional ones given by me, the impugned order cannot be interfered with.

4. Both the Civil Revisions, therefore, fail and are dismissed; but I shall make no order as to costs in either of them.