
(2020) 02 PAT CK 0096

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 4606 Of 2015

Ram Anuj Kumar And Ors

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 26-02-2020

Acts Referred:

Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 37(2), 101

Citation : (2020) 02 PAT CK 0096

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Surendra Kishore Thakur, Manoj Kumar Pandey, Pawan Kumar

Final Decision : Dismissed

Judgement

1. Learned counsel for the petitioners and learned AC to AG have assisted the Court.

2. The petitioners have moved for the following reliefs:

â??(i) For issuance of writ in the appropriate nature for quashing of the Notice dated 29.1.2015 under section 37(2) whereby the Land

Acquisition Officer has given a Notice to the petitioners to withdraw the compensation amount and remove the structure without considering

the objection filed by the petitioners that neither the Gadget Notification was made against the petitioners nor any notice was given to the

petitioners though all the notices were issued against the heirs of original land holder who have already sold the land to the petitioners

prior to the proceeding initiated for acquisition.

(ii) For further quashing of the Notification dated 19.7.2013 issued under the signature of the respondent-authority and the notice

published in the daily Newspaper 'Rashtriya Sahara' dated 28.7.2013 as there is no need for acquisition of the entire land measuring an

area 48 decimal as the whole spirit of the acquisition is to construct a connecting road to Abhishek Pushpakarni Pond at Vaishali.

(iii) For further direction to the respondent-authority to get modify the notice for acquisition only up to the extent of require land for

connecting road and the rest of the land be exempted from the acquisition.

(iv) For further direction to the Respondents-Authority to dispose of the representation/objection of the petitioner filed against the said

acquisition by reasoned and speaking order within time framed.

(v) For further direction to the Respondent-Authority not to disturb the petitioners in their peaceful possession of the disputed land till

deciding the objection filed by the petitioners.

(vi) And for any other relief/reliefs for which the petitioners are found to be entitled in the eye of law.â??

3. The petitioners claim to have purchased the land in question through registered sale deed in the year 2012. Part of the said land was also subject

matter of acquisition by the State Government for which notice was published in the daily newspaper on 28.07.2018 invoking emergency provisions

with regard to acquisition. The petitioners are objecting on the ground that they have not been noticed and their land is being taken for constructing

approach road for Abhishek Pushpakarni Pond.

4. Learned counsel for the petitioners submitted that besides no notice having been issued in their name, land has not been utilized and, thus, in terms

of Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter

referred to as the 'Act') the same has to be returned to them, if not utilized, after five years. Learned counsel submitted that they are ready to

give part of their land for the purpose of construction of the road.

5. Learned counsel for the State submitted that other similarly situated persons whose land have been acquired have been paid the compensation

amount and it is for the petitioners to go before the authority and accept the same.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties the Court is not persuaded to

interfere in the matter. 7. The acquisition of the land was for making a road to connect Abhishek Pushpakarni Pond and the process for the said acquisition started prior to the land being purchased by the petitioners. Thus, at the relevant time, when the name of the petitioners were not before the revenue authorities, no notice could have been given to them. Moreover, the requisition to acquire the land having been initiated much prior to transfer of the land to the petitioners, whatever changes have been made by building any structure on it was a chance they were taking. Thus, the authorities proceeding in the matter cannot be said to be acting arbitrarily and in fact, it was thus petitioners who had acted in haste by constructing any structure on the aforesaid land which stood acquired under emergency provisions in the year 2013 itself. Further, as per Section 101 of the Act if the land acquired under the Act remains unutilised for a period of five years from the date of taking over of possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government. Thus in the present case, it is for the State to take a call, in the event the land is not utilized, with regard to dealing with the land thereafter. However, the Court will indicate that construction of connecting road, which is for a public purpose, such acquisition cannot be said to be arbitrary or unjustified. At the cost of repetition, it was incumbent upon the petitioners to be aware of the land acquisition proceeding initiated with regard to the land in question which they had bought. Thus, raising objection in the present writ petition with regard to such action of the authority and acquisition, in the considered opinion of the Court, is not sustainable.

8. As far as the contention of the petitioners with regard to acquisition of land that they are ready to give part of their land for construction of the road, the Court would only observe that for the same the petitioners have to approach the authorities who are competent to take a decision. The Court would not interfere in the matter.

9. For reasons aforesaid, the writ petition stands