
(2003) 06 PAT CK 0006
In the Patna High Court
Case No : C.W.J.C. No. 7181 of 2000

Ramchandra Prasad Sharma and Others	APPELLANT
Vs	
The State of Bihar and Others	RESPONDENT

Date of Decision : 27-06-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 11A, 4, 4(1), 5A

Citation : (2003) 3 PLJR 774

Hon'ble Judges : S.K. Katriar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.K. Katriar, J.—Heard Mr. Gopal Govind Mishra for the Petitioners, Mr. S.S. Naiyar Hussain, learned Government Pleader No. II for Respondent Nos. 1 to 4, and Mr. Mithilesh Kumar Pathak, junior counsel to Mr. A. Amanullah for Respondent No. 5.

2. This writ petition has been preferred with a prayer to quash the notification dated 31.8.1992 (Annexure-1), issued by Respondent No. 2 (the District Magistrate-cum-Collector, Jehanabad) in terms of Section 4 of the Land Acquisition Act (hereinafter referred to as the "Act"). The Petitioners were served with the said notice dated 31.8.1992 in terms of Section 4 of the Act with the intention to acquire the lands of the Petitioners for public purpose. The Petitioners were called upon to submit their objections, who did submit their objections, which were considered by the Land Acquisition Officer, Jehanabad, by his order dated 16.9.1993 (Annexure-4), whereby he released three plots of land from the acquisition proceeding. The Petitioners complain before this Court that further steps have not been taken for acquisition of the lands and, therefore, the land acquisition proceeding may be quashed.

3. Respondent Nos. 1 to 4 are represented by learned Government Pleader No. II, who submits that Respondent Nos. 1 to 4 have not filed counter affidavit in

spite of repeated orders of this Court and the efforts made by him. He has, however, made submissions on the basis of the materials on record.

4. Learned Counsel for the Respondent No. 5 has made his submission on the basis of his counter affidavit.

5. I have perused the pleadings on record and considered the submissions of learned Counsel for the parties. It appears to me that the matter was taken up on 8.8.2000, 13.2.2001 and 7.9.2001 on which dates opportunities were granted to Respondent Nos. 1 to 4 to file the counter affidavit but the same has not been filed, and the learned Government Pleader No. II expresses helplessness. Section 11A lays down that the Collector shall make award u/s 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse. The declaration adverted to therein has to be made u/s 6 of the Act. Section 6(1) of the Act lays down that when appropriate Government is satisfied, after considering the report, if any, made u/s 5A, Sub-section (2), that any land is needed for a particular purpose, a declaration shall be made to that effect by the authority prescribed therein. If the award within a period of two years of the requisite declaration in terms of Section 6(1) of the Act, namely, to the effect that the lands are needed for public purpose is not prepared then the land acquisition proceeding shall lapse. Section 6 proviso (ii) lays down that if the requisite declaration as to the public purpose adverted to in Section 6(i) is not made within a period of one year from the date of publication of the notification u/s 4(1) of the Act, then the aforesaid declaration in terms of Section 6(1) of the Act cannot be made. The consequence in the event of failure on the part of the authorities under the Act to take the various steps mentioned above, then the land acquisition proceedings would lapse by automatic operation of law. It is stated in the counter affidavit of Respondent No. 5 that the District Land Acquisition Officer, Jehanabad has informed that the process of award is still pending, vide Memo No. 37, dated 9.6.2000. It appears to me on a plain reading of the counter affidavit of Respondent No. 5 that there has been no progress, and no step has been taken, in the land acquisition proceeding after the aforesaid order dated 16.9.1993 (Annexure-4) was passed. I am, therefore, of the view that the land acquisition process now stands in breach of the provisions of the Act, particularly Section 6 read with Section 11A of the Act, as a result of which the land acquisition proceeding has lapsed. In that view of the matter, the aforesaid notice dated 31.8.1992 (Annexure 1) is fit to be quashed.

6. In the result, this writ petition is allowed and the impugned notification dated 31.8.1992 is hereby quashed.