
(1999) 09 PAT CK 0124
In the Patna High Court
Case No : C.W.J.C. No. 9689 of 1989

Sheo Kumar Lall

APPELLANT

Vs

Bihar State Housing Board and Others

RESPONDENT

Date of Decision : 10-09-1999

Acts Referred:

Citation : (1999) 3 BLJR 2317 : (1999) 3 PLJR 610

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Judgement

S.J. Mukhopadhaya, J.—The petitioner preferred the writ petition for direction on the respondents not to demolish the residential building of the petitioner standing over plot No. 359 in village-Dalpatpur (Arrah) by issuing a writ in the nature of mandamus or to issue any other writ or writs.

2. According to petitioner, he purchased the land in question, measuring 11 decimals of plot No. 359 through a registered sale-deed dated 22nd March, 1976 after obtaining permission from his office on 22nd January, 1976. Subsequently he took physical possession of the land, got his name mutated with the State of Bihar and Arrah Municipality. Subsequently, after taking building construction loan from the department ; approval of map by the Executive Officer, Arrah Municipality made on 23rd December, 1976, he constructed a house up to roof level by 10th August, 1977 and further request was made to release rest of the fund for completion of the building.

3. Subsequently, the petitioner came to know about the Gazette notification published on 1st November, 1977 relating to acquisition of land and having come to know of the same filed application before the 6th respondent for exclusion of his plot from the scheme of acquisition on the ground that he had already constructed a dwelling unit for his personal use.

It is stated that the respondent No. 6 had so exempted land of similarly situated persons, but he did not choose to pass any specific order in respect of

petitioner's land being plot No. 359. The residential unit was completed on obtaining loan from the parent department of the petitioner (Post & Telegraph Dept.), and the petitioner is residing over the same.

4. According to petitioner, nearer to the aforesaid plot another area of 6 decimals of plot No. 356 belongs to the petitioner, which has been acquired by the respondent, but petitioner never raised any objection in respect of the same. He readily agreed to accept the compensation and requested to exempt the plot No. 359, having constructed a house thereon.

It is stated that as the Housing Board has to start construction of houses over the acquired land in absence of any specific order passed by the respondent excluding the lands in question, because of threat the petitioner has moved before this Court in the present writ petition.

5. At the admission stage, while interim order was passed on 20th February, 1990, the respondent-Housing Board was asked to file affidavit. On 7th February, 1991, after various adjournments no affidavit having been filed on behalf of the Housing Board, this Court had to admit the case and notice was again served on the respondents.

6. Till date no counter-affidavit has been filed by the respondent, nor they have opposed the writ petition. It appears that petitioner is residing in the house, in question, constructed over the plot, without any objection of the respondents for more than 20 years.

7. In the aforesaid circumstances, I direct the respondents not to demolish the structure/building standing over the land plot in question, without taking recourse of a Court of law of competent jurisdiction.

8. The writ petition stands disposed of with the aforesaid observation and direction. However, there shall be no order as to costs.