

(2007) 03 JH CK 0028
In the Jharkhand High Court
Case No : F.A. No. 45 of 1991 (R)

State of Bihar

APPELLANT

Vs

Chinibas Mahto and Another

RESPONDENT

Date of Decision : 07-03-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 89
Land Acquisition Act, 1894 — Section 18, 28A

Citation : (2007) 2 JCR 209

Hon'ble Judges : M.Y. Eqbal, J; D.K. Sinha, J

Bench : Division Bench

Advocate : Shamim Akhtar, SC II, for the Appellant; Rajiv Ranjan, for the Respondent

Judgement

1. Heard the counsel for the parties on the supplementary affidavit dated 2.3.2007 filed by the respondent-Steel Authority of India (in short SAIL).
2. These two first appeals along with several other appeals have been filed by the appellant - State challenging the award passed by the Land Acquisition Judge in several Reference cases u/s 18 of the Land Acquisition Act (in short the Act).
3. This Court, took judicial notice of the fact that the lands of poor villagers were acquired by the State for the Bokaro Steel Plant in the year, 1960-61 and, thereafter, several awards were prepared by the Land Acquisition Officer and Land Acquisition Judge determining compensation but the claimants could not get compensation till date.
4. It appears that the land losers, being aggrieved by the compensation awarded by the Land Acquisition Officer, moved applications for reference u/s 18 of the Act. Pursuant to that the Land Acquisition Judge, sometimes in 1990, passed judgment and award enhancing the compensation amount. The appellant- State has challenged those judgments by filing several appeals including the instant appeals. Consequently those villagers whose lands were acquired about 50 years

back, could not get compensation.

5. Noticing the aforesaid facts, this Court taking into consideration the provision of Section 89 of the CPC, tried to find out the existence of any element of settlement which may be acceptable to the parties. These appeals were, therefore, referred to the Division Bench for passing further orders after hearing the parties.

6. While referring these appeals to the Division Bench, the learned Single Judge noticed the fact that the cases are pending for the last more than 45 years and in the event the appeals fail, the State will have to pay ten times more than the amount of compensation assessed by the Land Acquisition Judge. The Division Bench, by order dated 12.9.2006 constituted a Committee consisting of a Conciliator appointed by the State Legal Services Authority, Assistant General Manager (personal), Managing Director, Secretariate Bokaro Steel Plant, SAIL and Mr. M.P. Sinha, A.G.M. (Project), Bokaro steel Plant, SAIL and Director (Project) Land and Rehabilitation, Bokaro. The Committee was directed to submit a detailed report as to the number of cases pending before the Special Land Acquisition Officer u/s 28A of the Act a. The Law Secretary, State of Jharkhand, was made convener of the Committee.

7. Pursuant to the aforesaid order the Committee submitted final report giving the details of the pending cases and also the total amount of compensation payable by the appellant. In the report it was stated that the SAIL for whose benefit the lands were acquired, is ready to take the entire liability subject to the condition that the State Government immediately executes a deed of conveyance in favour of the SAIL. Since the condition put by SAIL was very fair and reasonable, the Revenue Secretary, Govt. of Jharkhand was directed to file an affidavit. When the affidavit was not filed, order was passed for personal appearance of the Revenue Secretary, Govt. of Jharkhand. After his personal appearance the Principal Secretary assured the court that necessary affidavit shall be filed by 31.1.2007.

8. In the affidavit filed by the Principal Secretary, Revenue department it was, inter alia, stated that the State Government wants that no financial liability in any form or in any case or at any time in respect of payment of compensation of the acquired lands, shall be borne or shared by the State Government. In the affidavit it was further stated that the SAIL should also undertake that whatever compensation is determined in any proceeding in favour of the raiyats, they shall be paid compensation by SAIL. The Revenue Secretary further stated in the affidavit that the lands were acquired decades ago and that the entire lands had been handed over to the then Hindustan Steel Ltd. (now SAIL, Bokaro steel Plant) and, accordingly, Bokaro steel Plant was established. Hence question of putting SAIL in possession of the lands does not arise. On the basis of the affidavit learned Counsel appearing on behalf of SAIL agreed to the condition put in the affidavit and further informed this Court that the respondent- SAIL is ready to release a sum of Rs. 70 crores for the purpose of payment to the

rightful claimants and land losers.

9. The matter was finally taken up on 9.2.2007 and this Court, after hearing the counsel appearing for the State, directed the state to submit draft deed of conveyance within two weeks so that compensation amount may be paid to the land losers and in lieu thereof the land acquired for the respondent- SAIL is finally transferred by the State.

10. On 28.2.2007 another affidavit was filed by the Principal Secretary, Government of Jharkhand seeking some more time for the purpose of preparing draft deed of conveyance and further stating that draft is to be approved by the law department, Finance department and Revenue department etc.

11. From the facts narrated hereinabove, it is clear that the matter was at the final stage of settlement after the respondent- SAIL agreed to pay the entire compensation amount for the lands acquired and the State was to execute the formal deed of conveyance. It is at this stage and when the court was in seisin of the matter, a letter dated 27.2.2007 was issued under the signature of one Mr. Dulal Bhuiyan, the Revenue Minister, Govt. of Jharkhand addressed to the Managing Director, Bokaro steel Plant. In the said letter it is mentioned that as per agreement with the State the respondent- Bokaro Steel Plant had agreed to produce 10 million tones steel whereas Bokaro steel Plant is producing only 4 million tones steels. Hence the Revenue Minister directed the Managing Director, Bokaro steel Plant to return the surplus land which is the subject matter before this Court to the Government. A copy of the said letter has been annexed as annexure I to the supplementary affidavit.

12. Prima facie, we are of the view that it is a direct interference by the Revenue Minister in the court's proceeding. When the Principal Secretary filed affidavit, who is the head of the Revenue department, Govt. of Jharkhand putting condition which has been complied with by the respondent-SAIL and only the draft deed of conveyance was to be approved by the Govt. then there was no occasion for the Revenue Minister to issue the aforesaid letter.

13. Prima facie the conduct of the Minister and the Secretary shows that the manner in which they have conducted themselves clearly tended to lower the authority of this Court and obstruct the administration of justice. It is well settled that any act done or writing published calculated to obstruct or interfere with the due course of justice or lawful process of court is a contempt of court. Recently the Supreme Court, dealing with a case of contempt against a Minister in the case of T.N. Godavarman Thirumulpad through the Amicus Curiae Vs. Ashok Khot and Another, , observed:

Disobedience of this Court's order strikes at the very root of the 1 of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. Hence, it is not only the third pillar but also the central pillar of the democratic State. If the judiciary is to perform its duties and functions effectively and remain true to the spirit with

which they are sacredly entrusted to it, the dignity and authority of the courts have to be respected and protected at all costs. Otherwise, the very cornerstone of our constitutional scheme will give way and with it will disappear the rule of law and the civilized life in the society. That is why it is imperative and invariable that courts' orders are to be followed and complied with.

14. In the background of the aforesaid facts we are constrained to issue notice to the Revenue Minister to show cause as to why a contempt proceeding be not initiated against him for issuing the said letter interfering with the court's proceeding. Let notice of contempt be also issued against the Principal Secretary, Revenue department, Govt. of Jharkhand as to why he has not complied with the direction issued by this Court within the time-frame. Show cause must be filed on or before 16th March, 2007. Put up this case on 19th March, 2007. Let a copy of this order be handed over the counsel for the State-appellant.