
(2007) 12 JH CK 0007
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 : 06-12-2007

Acts Referred:

Civil Procedure Code Amendment Act, 1999 — Section 89
Land Acquisition Act, 1894 — Section 11, 16, 18, 23(2), 28A

Citation : (2008) 56 BLJR 1057 : (2008) 2 JCR 47

Hon'ble Judges : M.Y. Eqbal, J; D.G.R. Patnaik, J

Bench : Division Bench

Advocate : S.B. Gadodia, A.G. and Shamim Akhtar, SC-II, for the Appellant; V. Shivnath, D.K. Prasad and Rajiv Ranjan, for the Respondent

Judgement

M.Y. Eqbal, J.—More than 10,000 families who are the members of the Scheduled Caste, Scheduled Tribes and other communities were dispossessed from their agricultural lands 45-50 years back under the provisions of Land Acquisition Act when their lands were acquired in the year 1959-1962 for the purpose of construction of 4th Steel Plant at Bokaro for erection of Iron & Steel, ancillary works and industries and on the said land Bokaro Steel Plant of Steel Authority of India was established and possession of the said land was given by the State to the Bokaro Steel Plant in 1964. Unfortunate part is that those raiyats and land losers have still not been paid their rightful and legitimate compensation amount so enhanced by the Land Acquisition Judge because of the fact that the State of Bihar, now Jharkhand have challenged those awards passed by the Land Acquisition Judge by filing these appeals before this Court which are pending for the last 16 years.

2. About 46 appeals and 10,312 applications u/s 28A are still pending and those persons are waiting for payment of compensation. It is not only violation of their legal right, but human right also. On 1.5.2006, these appeals were taken up by the learned Single Judge and the same was referred to the Division Bench. While

referring the matter to the Division Bench, learned Single Judge, considering the provisions of Section 89 of the C.P.C. and the Mandate of the Supreme Court, expressed his feelings that it is high time the dispute be settled through Alternative Dispute Redressal Forum so that those poor land losers could get compensation for their land.

3. When the matter was placed before the Division Bench, this Court shocked and surprised to take notice of the fact that for the last 50 years those land losers who were deprived of their livelihood because of dispossession from their lands could not be paid their legitimate and rightful compensation. We were, therefore, compelled to direct the Chief Secretary, Revenue Secretary, Finance Commissioner, Secretaries of the Water Resources and Agriculture Department to appear before the Division Bench. Accordingly, on 2.5.2006 the matter was heard by the Division Bench and the following order was passed :

Heard in part.

Both the appeals have been preferred by the State against the judgment dated 21st September, 1998 and the award dated 3rd November, 1990, passed by the Land Acquisition Judge, Chas, in L.A. Reference Case Nos. 360 of 1976 and 1 of 1989.

The lands, in question, were acquired by the State in the year, 1960-61 in favour of the Bokaro Steel Plant, Bokaro. A number of awards were prepared in favour of different claimants and many of them, being dissatisfied with the award amount, moved for reference u/s 18 of the Land Acquisition Act. On similar issues, judgments having already been delivered by Division Bench of this Court (Ranchi Bench of Patna High Court), following those judgments, the Land Acquisition Judge answered the two reference in favour of the claimants and held that the claimants are entitled for compensation at the rate of Rs. 8,000/- per Acre for paddy land and Rs. 6,000/- per Acre for Gora land. The judgment of the Division Bench, on the basis of which references were answered, related to some other lands, acquired by the State for same purpose in favour of the Bokaro Steel Plant, at that relevant point of time. The Division Bench's judgment, not having been challenged by the State before the Supreme Court, has already reached finality. The appeals, which are pending before the High Court for about fifteen years, could not be taken up due to pendency of large number of cases and shortage of Judges.

Before division of the State of Bihar, a decision was taken that where compensation amount does not exceed Rs. 25,000/-, no appeal should be preferred by the State and the appeal(s), already preferred, should be withdrawn. After creation of the State of Jharkhand, similar decision was taken by the State of Jharkhand from its Water Resources Development Department vide letter No. 14/03-OA-43/2002: 3002, Ranchi dated 19th September, 2002. The State of Jharkhand also decided not to prefer any appeal where compensation amount does not exceed Rs. 25,000/- and to withdraw the

appeal(s), if preferred against such judgment(s) and award(s). Such decision were been taken in public interest.

Section 89 was inserted by CPC (Amendment) Act, 1999 with effect from 1st July, 2002 and provision was made enabling the Court to find out, if there exists element of settlement, which may be acceptable to the parties, to formulate the terms of settlement and give them to the parties for their observation and after receiving the observation of the parties, to formulate the terms of a possible settlement and to refer the same for settlement through alternative forum for resolution (Alternative Dispute Resolution- ADR).

The Jharkhand High Court Legal Services Authority was intended to hold a Lok Adalat on 7th May, 2006. To find out whether appeals, pending against the orders, passed in Land Acquisition Cases, can be settled outside the Court in Lok Adalat, step was taken u/s 89 of the CPC by the learned Single Judge (one of us- M.Y. Eqbal, J.), it having come to the notice of the Court that there are large number of cases where lands were acquired about 40-45 years back and the matter has not yet been settled because of large number of appeals, preferred by the State, irrespective of the quantum of compensation amount, awarded to the claimants-land losers. Considering the fact that the lands were acquired in the year, 1961-62 and the Land Acquisition Judge, besides determining the compensation amount, also directed to pay additional compensation at the rate of 12% on the market value from the date of notification, issued about fifty years back i.e. on 10th August, 1956 and the solatium at the rate of 30% on the market value as also the further interest at the rate of 9% and 15%, as provided u/s 23(2) of the Land Acquisition Act, the learned Single Judge was of the view that the matter should be settled before the Lok Adalat.

Public interest being involved and as the State spends the money for fighting out litigations and if the case is not decided immediately and ultimately the case is lost, the State is to cough huge amount, which ultimately burdens the public exchequer, so the case was referred by learned Single Judge to Division Bench for hearing and the Chief Secretary, Revenue Secretary, Finance Commissioner, Secretary, Water Resources Development Department Govt. of Jharkhand, Ranchi, as also the Agriculture Secretary were directed to appear before the Court to answer as to why they be not ready to comply with the mandate of the Parliament, as contemplated u/s 89 of the Code of Civil Procedure, and the similar mandate of the Supreme Court. The aforesaid officers appeared today but shown inability for settlement outside the Court.

One of us (M.Y. Eqbal, J.) while referring the appeals to the Division Bench noticed that the present matter is pending for last 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. This fact was brought to the notice of the State authorities, who are present in the Court, and it was suggested to compromise the matter and to withdraw the appeals in cases, where compensation amount has been awarded up to Rs. 1,00,000/-, which may

ultimately be in the financial interest of the State. It was brought to their notice that even if the appellate court interferes with the order, passed by the land Acquisition Judge, the total compensation amount will not be set aside and, at best, the compensation amount may be brought down and above 70 to 80 percent of the compensation amount may have to be paid. In that case also, if the State contests the cases and they remain pending for about 45 years and 70 to 80 percent of the awarded compensation is paid with additional compensation, solatium and interest, as provided u/s 23(2), in such case after about 40 to 45 years, the State will have to bear much more amount than the amount, if the original compensation amount would have been paid 45 years back, without contesting the cases.

In spite of the aforesaid discussions, no cooperation having been made by the State authorities and as the learned Advocate General also failed to pursue the State authorities and did not agree for settlement, we are of the view that apart from decision of the cases on merit, it may be determined "whether in public interest the State should contest the case up to appellate stage, if the amount of compensation does not exceed Rs. 1,00,000/- and if the matter remains pending for more than five years, in a court of law?"

Parties should be ready for hearing on merit and on the issue, as framed above.

Let both the cases be listed for further hearing under the heading "for orders" on 12th May, 2006.

4. The matter was again heard and adjourned. On 12.9.2006, the learned Counsel appearing for the Bokaro Steel Plant informed that about 7000 applications are pending u/s 28A of the Land Acquisition Act before the Collector-cum-Land Acquisition Officer, Bokaro. Learned Counsel further informed that the Steel Authority of India Ltd is interested to settle all the claims so that State of Jharkhand could finally transfer those lands in favour of the Company by executing a deed of conveyance. It was submitted that all cases shall be settled with the help of Lok Adalats. After hearing the parties, this Court constituted a Committee consisting of Conciliator appointed by State Legal Services Authority, Mr. Sandip Tula, A.G.M. (Personnel), Managing Director, Secretariat Bokaro Steel Plant, SAIL and Mr. M.P. Sinha, A.G.M. (Project) Bokaro Steel Plant, SAIL, Mr. Rajiv Ranjan, Advocate and the Director (Project) Land and Rehabilitation, Bokaro. The Law Secretary, Govt. of Jharkhand was nominated as Convener of the Committee and was directed to submit detailed report as to number of cases pending before the Land Acquisition Officer and the amount which the company is ready to pay.

5. In compliance of the aforesaid order a preliminary report was submitted on 27.10.2006 by the Committee constituted by this Court consisting of Law Secretary, State of Jharkhand, Conciliator, State Legal Services Authority, A.G.M. (Personnel), Bokaro Steel Plant, A.G.M. (Project), Bokaro Steel Plant, Director (Project), Land and Rehabilitation, Bokaro and the Secretary, Department of Law

and Justice Government of Jharkhand stating therein, inter alia, that about 46 First Appeal and 10 cases u/s 18 of the Land Acquisition Act and altogether, 10167 applications u/s 28A of the Act relating to 19 villages are pending before the Special Land Acquisition Officer, Bokaro. The Committee sought two months" more time for submitting final report. Ultimately, the Committee submitted final report on 28.11.006. In the said report it was mentioned that about 10,312 applications u/s 28A of the Act are pending and tentative compensation amount likely to be paid in the event the applicants succeed, shall be about Rs. 54,05,79,042/-. The Committee, after deliberations and discussions, came to the conclusion that approximately about Rs. 65,12,10,415/- shall be the total liability. In the said report it was also mentioned that the SAIL/Bokaro Steel Plant is ready to pay the entire liability in the event deed of conveyance is executed by the State in favour of the Company.

6. For better appreciation, final report of the Committee is reproduced herein below:

The Hon"ble Jharkhand High Court vide order dated 12.09.2006 in F.A. No. 45/1991(R) and 46/1991 (R) has constituted a committee consisting of Conciliator, State Legal Services Authority, Mr. Sandip Tula, A.G.M. Personnel Bokaro Steel Plant, Mr. M.P. Sinha, A.G.M. (Project), Bokaro Steel Plant, Mr. Rajiv Ranjan, Advocate, Jharkhand High Court & Director (Project), Land & Rehabilitation, Bokaro, secretary, department of Law & Justice, Government of Jharkhand and has been made convener of the said committee. The Hon"ble Court had directed the committee to submit a detailed report as to the number of cases pending before the Hon"ble High Court, Land Acquisition Judge, Bokaro and before the Land Acquisition Officer, Bokaro and the amount for which the Bokaro Steel Plant is ready to pay.

In view of the direction of Hon"ble High Court the Committee had held four meetings on 21.09.2006, 14.10.2006, 25.11.2006 & 28.11.2006 and made detail deliberation with respect to the reference made before the committee.

It is pertinent to mention that from the year 1956 to 1982 various lands in the present district of Bokaro had been acquired for Bokaro steel Plant and earlier some compensation had also been paid to the land owners by the State Government from the revolving fund of the Bokaro Steel Plant. However, being dissatisfied with the amount of compensation, some of the land owners had filed cases before the Land Acquisition Judge, Bokaro. It is also pertinent to mention that some of the cases which relates to land acquisition notification No. 9059 dated 09.08.1956 had been decided by the Land Acquisition Judge, Bokaro in the year 1987 and after the said judgment different applicants belonging to 19 villages had filed altogether 10,312 cases before the Special Land Acquisition Officer, Bokaro u/s 28A of the Land Acquisition Act. The details of aforesaid applications village wise along with the name of applicants and other details has been compiled by Special Land Acquisition Officer, Bokaro on the instruction of the committee. Special Land Acquisition Officer had submitted photo state copy

of the said details before the committee on 12.11.2006, the said details are annexed herewith alongwith this report and marked as Annexure - 1 series being enclosed separately.

On the instruction of the committee, the Special Land Acquisition Officer, Bokaro also submitted tentative compensation amount which is required to be paid to different applicants who filed application u/s 28A of the Land Acquisition Act. From perusal of aforesaid statement, the committee found that Rs. 54,05,79,042/- is required to be paid as against 10,312 applications u/s 28A, the details of the calculation of aforesaid amount submitted by Special Land Acquisition Officer is annexed herewith & marked as Annexure -2 with this report.

It is relevant to mention that in course of deliberation a statement signed by Sri A.K. Singh, Land Acquisition Judge, Bokaro has been produced to Director (Project), Land & Rehabilitation for perusal of committee. From perusal of aforesaid statement it appears that at present 10 cases u/s 18 of Land Acquisition act are pending before the Land Acquisition Judge, Bokaro. The photo copy of the statement is issued under the signature of Sri A.K. Singh, Land Acquisition Judge, Bokaro dated 26.09.2006 is annexed herewith & marked as Annexure - 3.

During the deliberation, Director (Project) Land & Rehabilitation had stated that in the aforesaid cases pending before the Land Acquisition Judge, Bokaro approximately about Rs. 96,30,756/- may be required to be paid presently to different petitioners, if the cases are decide din their favour. It is further pointed out that if the cases pending before the Land Acquisition Judge, Bokaro is decided then in all probability, other villagers who are covered by the Land Acquisition Notification in the aforesaid 10 cases may file applications u/s 28 of the Land Acquisition Act before the Special Land Acquisition Officer, Bokaro for enhancing the compensation amount and in that cases the liability to pay compensation may further increase.

During the deliberation a list of altogether 46 first appeals had been produced by Special Land Acquisition Officer which shows that at present 46 first appeals are pending in the Hon''ble High Court in relation to Land Acquisition cases of Bokaro Steel Plant.

The photo stat copy of aforesaid list furnished by Land Acquisition Officer, Bokaro is annexed herewith & marked as Annexure - 4 to this report.

It is not out of place to mention that during the deliberation it has been brought to the notice of committee that as per the Direction of the Hon''ble Supreme Court Rs. 8,87,50,984.80 had been deposited by the State Government in the court against the various decreetal amount. The aforesaid amount is still to be reimbursed by the Bokaro Steel Plant.

It is further brought to the notice that Special Land Acquisition Officer, Bokaro had already disposed 104 cases u/s 28A in which an award of Rs. 1,32,49,632/-

have been passed, out of which the State Government had deposited Rs. 42,49,632/- and the rest amount i.e. Rs. 90,00,000/- is still required to be paid to the different land owners.

Thus, from perusal of annexure 2 and also after considering the money deposited by the State Government in the court and also taking into account that Rs. 90,00,000/- is required to be paid to different Land owners against the award passed by Special Land Acquisition Officer, Bokaro u/s 28A, the committee comes to the conclusion that at present approximately Rs. 65,12,10,415/- is the total liability as against the aforesaid cases. However it is made clear that the committee at present had not taken into account while assessing aforesaid amount the possibility of filing of different applications u/s 28A if the aforesaid 10 cases pending before Land Acquisition Judge, Bokaro ultimately decided in favour of land owners.

If is relevant to mention that on 25.11.2006 as per the decision of the committee the views of Managing Director SAIL/Bokaro Steel Plant has been solicited as to whether SAIL/Bokaro Steel Plant is ready to pay the aforesaid tentative compensation amount or not. The letter addressed to Managing Director SAIL/Bokaro Steel Plant dated 25.11.2006 is annexed herewith & marked as Annexure-5.

In response to aforesaid letter the Managing Director SAIL/Bokaro Steel Plant vide his letter No. MD/5693 dated 27.11.2006 has informed the committee that SAIL/Bokaro Steel Plant is ready/agree to pay the entire above liability subject to the conditions mentioned in the said letter. The original letter of Managing Director SAIL/Bokaro Steel Plant dated 27.11.2006 is annexed herewith & marked as Annexure - 6 with this report.

It is worth to mention that for Bokaro Steel Plant some lands had been acquired at Bhawnathpur, Garhwa for captive mines. During the deliberation two letters have been produced by Assistant General Manager (Personnel), Bokaro Steel Plant before the committee written by Sri Akhileshwar Prasad, Govt. Pleader, Daltonganj and Munni Tiwari, Govt. Pleader, Garhwa addressed to Director (Project) Land and Rehabilitation, Bokaro respectively and the perusal of the same shows that no case relating to land acquisition of Bokaro Steel Plant is pending either in civil court, Daltonganj or Civil court, Garhwa. The photo copy of aforesaid letters is annexed herewith & marked as annexure - 7 series.

Before parting with this report the committee acknowledges the full co-operation rendered by Director (Project) Land & Rehabilitation & Special Land Acquisition Officer as well as all their office staff. The committee also appreciates the co-operation given by Bokaro Steel Plant in providing infrastructure & other facilities to the committee as well as Special Land Acquisition Officer for compiling the details of the various cases.

This report is being submitted before the Hon"ble High Court for kind consideration.

The meeting ended with thanks.

Sd/- Sd/- Sd/- (Prashant Kumar) (A.B. Shekhar) (Mrs. Mukta Sahay) Secretary, law Conciliator, State Director, Land & Govt. of Jharkhand Legal Service Rehabilitation, Authority Bokaro Sd/- Sd/- Sd/- (Rajiv Ranjan) (Sandeep Tula) (M.P. Sinha) Advocate, Jharkhand A.G.M. (Pers.) A.G.M. (Project) High Court MD's Office SAIL SAIL, BSL SAIL, BSL.

7. After hearing the parties and after perusal of the report, this Court directed the Revenue Secretary to file affidavit. After much persuasion one affidavit was filed by the Revenue Secretary, Government of Jharkhand. For better appreciation, I would like to reproduce the entire affidavit filed by the Revenue Secretary which reads as under:

1. "That I am at present working and posted as the Principal Secretary, Revenue & Land Reforms, Government of Jharkhand at Ranchi and, as such I am well acquainted with the facts and circumstances of the instant case.

2. That the deponent is swearing this affidavit as per the directions of this Hon'ble Court on the Steel Authority of India Ltd., agreeing to undertake the entire liability with regard to payment of compensation to the land looser arising out of the acquisitions made for the establishment of Bokaro Steel Plant, Bokaro and also with relation to such agreeing of Steel Authority of India Ltd., (hereinafter to be referred to as the SAIL) for execution of a Deed of conveyance by the State Government in favour of the SAIL (Bokaro Steel Plant).

3. That, the deponent states and submits that the SAIL (Bokaro Steel Plant) should unequivocally agree and undertake that it would pay to the land-loosers whatsoever amount of compensation is determined for payment in the pending proceedings in any court and also it should agree and undertake that it would pay all such compensation to the claimants, if so determined in due proceedings to be initiated in future.

4. That, the SAIL (Bokaro Steel Plant) should also agree and undertake that whatsoever amount if the State Government has so far paid in the previous proceedings to the land-loosers from the State Exchequer and has not been returned or paid by the SAIL (Bokaro Steel Plant) to the State Government, the SAIL (Bokaro Steel Plant) shall also pay the entire such amount to the State Government without any preconditions(s).

5. That this way the SAIL (Bokaro Steel Plant) should undertake that the entire liability which has accrued in past proceedings and are to be determined in the pending proceedings and/or further to determined, if fresh proceedings in some future time are levied and initiated, the total liability which is fixed and determined in this regard would be that of the SAIL (Bokaro Steel Plant) and the State Government in no way would be liable to make payment of any amount whatsoever.

6. That the SAIL (Bokaro Steel Plant) should also agree that the lands, which are

inoccupation of the State Government for the use of local administration and different offices and arms of the state Government, shall not be asked to be handed over to the SAIL (Bokaro Steel Plant) nor any composition for those lands should be asked to be home by the State Government. The liability of payment of compensation in respect of those lands shall also be that of the SAIL (Bokaro Steel Plant). This concession the SAIL (Bokaro Steel Plant) is required in view of the facts that approximately 3600 acres Government lands and 778 acres of forest land had been given to the SAIL (Bokaro Steel Plant) free of cost. Further whatever expansion of Govt. offices is done in future at Bokaro it is possible only when SAIL provides lands free of cost as there is hardly any Government land left there. Therefore, SAIL shall show utmost consideration to this future demand of land for the Govt. use without asking for any monetary compensation. Further, SAIL (Bokaro Steel Plant) shall not claim any special or otherwise right or privilege over those lands under the occupation of the State Government.

7. That if SAIL (Bokaro Steel Plant) agrees to fulfill the above mentioned propositions solely at their own cost, the State Government shall have no objection/hesitation in executing a Deed of Conveyance in favour of the SAIL (Bokaro Steel Plant).

8. That, the State Government only wants that no financial liability in any form in any case at any point of time in respect of payment of compensation of the acquired lands should be asked to be borne or shared by the State Government.

9. That, the SAIL (Bokaro Steel Plant) should also undertake that whatsoever compensation is determined in any proceeding in favour of raiyats, the raiyats concerned will be paid their amount of compensation by the SAIL (Bokaro Steel Plant) and the raiyats shall not be subjected to prolonged litigation. This protection the SAIL (Bokaro Steel Plant) is required to provide to the raiyats so that at no point of time the State Government may be required to interfere in any such matter. The State Government does not want henceforth any interference in the management of such lands or in any matter with regard to compensation to the raiyats.

10. That, as per the report of the committee the esteemed liability with regard to pending 28A applications has been determined around Rs. 65 Crores which does not include the amount of compensation involved in 46 (forty six) First Appeals pending in the High Court, 10 (Ten) cases u/s 18 pending before the Land Acquisition Judge, Bokaro and the amount of liability to be determined in prospective future proceedings, as such by way of good gesture the SAIL (Bokaro Steel Plant) should deposit substantial money with the Department for payment of raiyats and for adjustment of accounts with regard to the amount paid by the Government previously to raiyats / Land-loosers.

11. That, the lands had been acquired decades ago and with the acquisitions of the land the entire lands had been handed over to the then Hindustan Steel Ltd.

(HSL), now the SAIL (Bokaro Steel Plant) and accordingly Bokaro Steel Plant was established the entire acquired lands since the time of such acquisitions are under the management and control of the SAIL (Bokaro Steel Plant) and the State Government has no role in any such management and control of such acquired lands. The SAIL (Bokaro Steel Plant) now can not ask or insist the State Government to put it in possession of any particular piece of land including the so called 824.855 acres of land given in the BSP/SAIL affidavit in view of the fact that the lands have already been put under the possession of the SAIL (Bokaro Steel Plant) or are under their deemed possession and if there has been any encroachment/illegal occupation by any one, it had occurred while it was under the management and control of SAIL (Bokaro Steel Plant) and, as such, the State Government can not give any undertaking that it would put the SAIL (Bokaro Steel Plant) in possession of any such land(s) which have been occupied by local persons(s). However, the State Government shall provide help and assistance to the SAIL (Bokaro Steel Plant) in evicting them in due proceedings at the initiative of SAIL (Bokaro Steel Plant), but that would be only on the request of the SAIL (Bokaro Steel Plant).

12. That there are number of First Appeals pending in the Hon"ble High Court filed by the State Government which appeals shall be withdrawn in due course if the SAIL (Bokaro Steel Plant) agrees and undertakes to pay to the raiyats/land-loosers the liability in respect of the acquired lands and State Government is absolved from all financial liabilities in respect of payment of compensation of the acquired lands.

8. In reply to the State Government's affidavit, the respondents-Steel Authority of India Limited filed affidavit whereby they agreed to abide by all the conditions mentioned in their affidavit. Paragraph 4 to 7 of the affidavit filed by Steel Authority of India Limited is also reproduced herein below:

4 "That in response to paragraph 2, 3, 4, 5, 8 & 9 of the affidavit of Principal Secretary, Revenue and Land Reforms, Govt. of Jharkhand, Ranchi filed on 31.01.07, the SAIL/BSP undertakes to pay the entire liability with respect to the past payment already made by the Govt. as well as with respect to the pending cases as detailed in the final report of the committee constituted by the Hon"ble Jharkhand High Court vide order dated 12.09.06 in F.A. No. 45/91 (R) and 46/91 (R)

5. It is further stated that the final report of the committee clearly indicates that the total liability of the compensation comes to around Rs. 65,12,10,415 (approx) which the SAIL/BSP is ready to pay. The committee has also indicated that it has not taken into consideration while assessing the aforesaid amount the possibility of filing different application u/s 28A in case the 10 cases pending before Land Acquisition Judge, Bokaro as disclosed in Annexure-3 of the final report which may be ultimately decided in favour of the land owners and in that regard the SAIL also undertakes to pay such future liabilities.

6. That in response to paragraph 6, SAIL/BSP agrees and admit the same.

7. That the State Government may execute the Deed of Conveyance within a time frame of one month.

9. When the Steel Authority of India Limited agreed to the conditions imposed by the State of Jharkhand, this Court by order dated 9.2.2007 directed the counsel for the State to submit a draft deed of conveyance, so that all these pending litigations could be finally disposed of. When the matter reached the final stage of settlement, an affidavit was filed by Steel Authority of India Limited annexing copies of the letter issued under the signature of Sri Dulal Bhuiyan, Hon''ble Revenue Minister, Govt. of Jharkhand addressed to the Managing Director, Bokaro Steel Plant directing the Managing Director to return surplus land alleging that the Bokaro Steel Plant had agreed to produce 10 Million tones or Steel whereas it is producing only 4 million tones of Steel. This Court after hearing the parties, by order dated 7.3.2007, was constrained to issue show cause notice to the Revenue Minister as to who contempt proceeding be not initiated against him for issuing such letter and thereby interfering with the Court's proceeding. Relevant portion of order dated 7.3.2004 is quoted herein below:

11. From the facts narrated herein above, 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 1 to the supplementary affidavit.

12. Prima facie, we are of the view that it is a direct interference by the Revenue Minister in the courts proceeding. When the Principal Sectary 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 he Secretary shows that the manner in which they had 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 until 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 rule of law on which the judicial system rests. The rule of law is the foundation of 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.

10. In response to the said notice, the Revenue Minister filed show cause stating that he had no intention to interfere with the Court's proceeding and he had issued letter in question innocently and bona-fide. This Court kept the contempt matter pending for final disposal. In the meantime, the Steel Authority of India Limited was persuaded by this Court to settle all those matters so that land losers who have been waiting since 1960-61 for compensation could be paid their claims. Respondent-Company after holding meeting of the Board of Directors and with the consultation of Ministry of Steel, Govt. of India ultimately agreed to pay entire compensation amount for giving finality to the dispute. Once again by order dated 19.3.2007 the State or Jharkhand was directed to submit draft deed of conveyance. Curiously enough, instead of submission of deed of conveyance, another affidavit was filed by the Secretary, Revenue Department, Government of Jharkhand putting the same condition to the effect that some more lands shall be required for the use of different departments of the Government of Jharkhand. Respondent-Company even agreed to those conditions by stating in the affidavit that even any portion of land is further required for Government Office the same shall be provided by the Company.

11. On 19.3.2007, this Court took notice of all the aforesaid facts and events. On that day, Mr. S.B. Gadodia, learned Advocate General prayed for some more time for filing draft deed of conveyance. As requested by learned Advocate General, four weeks" more time was allowed for filing draft deed of conveyance. The order

dated 19.3.2007 is worth to be quoted herein below:

Heard learned Advocate General and perused the show cause filed by the Revenue Minister and the Cabinet Secretary. Although the Revenue Minister, in his show cause, has stated that he had no intention to interfere with the court's proceeding and he issued the letter in question innocently and bona fide, let the show cause be considered at the time of passing final order in these appeals.

As noticed above, the lands were acquired in 1956 and the land losers have not yet been paid their due compensation. The compensation amount finally assessed by the Land Acquisition Judge has been challenged by the respondent-State by filing these first appeals. To us it appears that filing of these appeals perhaps is on the apprehension of the State that in the event any enhanced compensation is required to be paid, the State shall be burdened with extra amount of compensation. It appears that at no point of time during the last 50 years the respondent-State raised any objection with regard to utilization of the land by the respondent Bokaro Steel Plant (SAIL). This Court, after much persuasion made the Company agrees to pay the entire compensation and for that purpose a Committee was constituted by this Court led by the Law Secretary, Govt. of Jharkhand. In the report submitted by the Committee it has been said that about more than ten thousand cases are pending in different forums and approximately 65 crores of rupees is to be paid to the claimants the respondent-Company, after holding meetings of the Board of Directors and with the consultation of the Minister of Steel, Govt. of India, ultimately agreed to pay the entire compensation amount. For the purpose of giving finality to the dispute the respondent-State was directed to submit a draft deed of conveyance. At that stage the Secretary, Revenue department, made an application putting some conditions to the effect that some more lands may be required for the use of different departments of the Govt. of Jharkhand. The respondent-Company agreed even to those conditions saying in the affidavit that if any portion of the land is required for Govt. offices, the same shall be provided to the Govt. In spite of the above agreement by the respondent-SAIL the deed of conveyance has not been filed till date by the respondent-State.

To-day Mr. Gadodia, learned Advocate General prays for some more time for filing the draft deed of conveyance. If he Govt. of Jharkhand, department of Revenue, has no any mala fide intention then they must submit the draft deed of conveyance within a very short time. As requested by the learned Advocate General, four weeks time is allowed for filing the draft deed of conveyance failing which appropriate order shall be passed by this Court. We may reiterate that the poor villagers have been deprived of their legitimate compensation for the last 50 years and it is expected that the State will not take any such step which may frustrate the entire efforts of this Court for getting the due compensation paid to the claimants-land losers. Put up this again under the same heading on 23rd April, 2007.

12. From the facts narrated herein above, it is crystal clear that the conduct of

the authorities of the State of Jharkhand, the Revenue Minister and the Revenue Secretary is wholly mala fide, inasmuch as the Steel Authority of India for whose purpose the land was acquired, is ready to pay the entire compensation, but the Government is adamant to drag the poor land losers into litigations and thereby deprive the land-losers to get their due compensation.

13. At this stage, it would be proper to refer the decision of this Court delivered in L.P.A No. 187 of 2002 and analogous appeals. In those cases also, lands of different villages were acquired by the Government for construction of iron and steel plant at Bokaro and (Sic) that effect, notifications were issued in 1956 and 1964. The award was given by the Land Acquisition Judge on the reference u/s 18 of the Land Acquisition Act and the judgment was put in execution by the awardees for recovery of awarded amount. The State of Bihar was arrayed as judgment-debtor who filed objection against the attachment of properties. Bokaro Steel Plant denied the liability and stated that they were not responsible to pay the higher amount of compensation. Those objections were dismissed and thereafter, the State of Bihar filed Misc. Appeal before this Court. In those cases, it was mentioned that after the Bihar Steel Plant and Rourkela Steel Plant came into existence, the State of West Bengal prevailed on the Central Government and the 3rd Steel Plant, namely Durgapur Steel Plant was erected in the State of West Bengal in the name of Hindustan Steel Limited. The State of Bihar, thereafter, approached the Central Government for 4th Steel Plant with such offers, assurances and promises. About 44000 acres of land was acquired by issuing notification u/s 4 of the Land Acquisition Act for erection of Iron & Steel Plant for public purposes at the public expenses. Ultimately the Central Government agreed to the assurances and promises of the State Government and agreed to set up 4th Steel Plant at Bokaro, namely, Bokaro Steel Plant. It was mentioned in the correspondences that in order to minimize the burden of cost of acquisition of land the Central Government agreed to pay ceiling price of Rs. 1900/- per acre as a cost of acquisition for the lands already acquired in the year 1956 and for subsequent acquisitions, but the Central Government agreed to pay and fix the ceiling prices of Rs. 3800/- per acre. It was specifically clarified that any amount over and above the minimum ceiling price fixed will have to be borne by the State Government and not by the Central Government. In spite of aforesaid assurances and promises made by the State of Bihar (now State of Jharkhand) to pay the compensation amount, the respondent-Steel Authority of India Limited now agreed to pay the entire compensation amount to the land losers on the conditions that the State of Jharkhand shall immediately transfer the acquired land in favour of Bokaro Steel Plant. But unfortunately, the State of Jharkhand is behaving like an ordinary litigant and raising unnecessary objections.

14. The matter was again heard at length on 23.4.2007 and this Court after considering the entire facts of the case, issued direction in the nature of mandamus directing the appellant-State for the performance of statutory duties. Para 10, 10A, 11, 12 and 13 of the order reads as under:

10. The primary concern of this Court is that those raiyats who have been dispossessed from the lands 50 years ago, should get their due compensation which both the State of Jharkhand and the Steel Authority of India are legally bound to pay.

10A Therefore, the question that falls for our consideration is as to whether it is a fit case where mandamus can be issued against the State Government to transfer the entire lands acquired for the purpose of Bokaro Steel Plant. Section 41 of the Land Acquisition Act makes it clear that if the land is acquired by the State Government then the State Government, on payment of entire compensation amount, shall transfer the land in favour of the company.

11. It is well settled that a writ of mandamus will be issued in appropriate cases directing the Government to perform its statutory duty. Where a public officer has refused to perform his statutory duty, a writ of mandamus can be issued to compel him to perform those duties. Even in such cases where this Court finds that inaction on the part of the authorities of the Government is wholly arbitrary, capricious and unjustified, a writ of mandamus can be issued compelling the authorities of the Government to perform their duties.

12. However, Mr. S.B. Gadodia, learned Advocate General very fairly submitted that two month" time may be allowed to the respondent-State for transferring the land in favour of Steel Authority of India. Learned Advocate General further Submitted that he would persuade the Government to perform their statutory duty so that those poor villagers, tribals and other land losers could get their compensation atleast even after 50 years of the their dispossession from the lands.

13. We appreciated the submission of the learned Advocate General. We adjourn this case to first week of July, 2007. In the meantime, we passed the following order which must be complied within the time frame specified in the direction given below:

(i) The Steel Authority of India/Bokaro Steel Plant shall deposit a sum of Rs. 70 Crores by 10th June, 2007.

(ii) The respondent-State shall execute the deed of conveyance transferring the entire acquired land in favour of the Company on or before the date fixed.

15. When this matter was again taken up on 2.6.2007, the respondents-Company, namely, Steel Authority of India, Bokaro Steel Plant presented a cheque of Rs. 70 Crores (Seventy Crores) drawn in favour of Registrar General Jharkhand High Court. We after hearing the Advocate General passed the following orders:

In compliance of the order dated 23.4.2007, the Steel Authority of India Limited, Bokaro Steel Plant through its lawyer Mr. Rajiv Ranjan presented a cheque of Rs. 70 Crores which has been drawn in favour of Registrar General, Jharkhand High Court.

Learned Advocate General is of the view that cheque should be drawn in favour of Deputy Commissioner as because ultimately the compensation amount to be disbursed to the real land losers whose land have been acquired through the Deputy Commissioner.

We are partly agreed with the view expressed by the learned Advocate General. In our view, instead of depositing the amount in the account of Deputy Commissioner, it would be more appropriate to draw a cheque of the aforesaid amount in favour of District Judge, Bokaro who shall keep the said amount in a separate account the amount of compensation shall be disbursed to the real persons as and when required through the Deputy Commissioner or any of the officers who may be entrusted by subsequent orders passed by this Court. Needless to say that District Judge, Bokaro shall supervise at the time of disbursement of amount to the real land losers in the manner that may be directed by this Court after Hearing counsel for the SAIL and learned Advocate General.

So far compliance of the order by the State Government is concerned, leaned Advocate General submitted that draft conveyance deed is being prepared and it shall be approved by the Cabinet before the date fixed by this Court.

It is desirable that before the draft is placed before the Cabinet, it shall be placed before this Court with a copy to the counsel for the other side so that the draft could be finalized before it is placed before the Cabinet.

Since there is a specific direction to the State Government to execute the deed of conveyance before the 1st week of July, 2007, we direct the State to file draft sale-deed by 1st of July, 2007.

Let this case be listed on 2nd of July, 2007.

In the meantime, respondent-SAIL shall deposit a fresh cheque drawn in favour of District Judge, Bokaro within ten days from today.

Let a copy of this order be handed over to the learned Counsel appearing for the parties.

16. Again the matter was taken up on 2.7.2007 and at the request of the Advocate General, one month's more time was allowed for submitting a draft deed of conveyance after getting it finalized with the respondent-Company. The matter was listed on 7.8.2007 and it was again adjourned for a month for finalization of deed of conveyance.

17. It would be useful to mention about the affidavit filed by the Principal Secretary, Revenue and Land Reforms Department Government of Jharkhand on 23.4.2007. In that affidavit it was stated that as per direction, the Deputy Commissioner, Bokaro prepared and submitted a draft deed of conveyance which was examined and approved by the deponent and was placed before the Hon"ble Minister of the Department for approval. The Hon"ble Minister approved the draft

deed of conveyance submitted by the deponent with some further modifications. It was stated that after approval granted by the Hon'ble Minister, the file containing the draft deed of conveyance will be sent to the Law Department for examination and after that, the file will be sent to the Finance Department and the Industry Department for their approval and then it will be sent to the Chief Secretary, Jharkhand. It was further stated that after the approval by the aforesaid authorities, the file will be sent to the Hon'ble Chief Minister and thereafter it will be placed before the Cabinet for final approval. In the said affidavit, it was stated that for completing the entire formalities, at least 3-4 months' time may be granted.

18. In spite of mandamus issued by this Court by order dated 23.4.2007 and also by subsequent orders the State Government failed to comply the direction by executing deed of conveyance in favour of the respondent-Company. Because of the non-compliance of the mandate by the State issued by this Court, the amount of compensation of Rs. 70 Crores deposited by the Company is lying with the District Judge and more than 10,000 cases could not be disposed of.

19. In the aforesaid background of the facts, now the question that arose for consideration as to what shall be the consequences for non-compliance and what should be the further order that may be passed by this Court.

20. Before passing final order, we would first like to mention the history of acquisition and the background of establishment of a big Steel Plant called Bokaro Steel Plant of Steel Authority of India.

21. As noticed above, in the year 1955 the then State of Bihar through its Secretary, Development (Industries) Department offered to the Central Government several facilities, concession, assurance and promises, etc for erection of 3rd Steel Plant either at Bokaro or Sindri. Those facilities, inter alia, were providing fifty square miles of land for the requirement of the Steel Plant, associated projects and the township as required for the Steel Plant, water facilities, guarantee of price claim on unleased mining concessions, etc. In spite of the aforesaid promise, the State of West Bengal prevailed on the Central Government and the 3rd Steel Plant namely; Durgapur Steel Plant was established in the State of West Bengal in the name of Hindustan Steel Limited. The State of Bihar, thereafter, approached the Central Government for the 4th Steel Plant offering the same assurances and promises. For the aforesaid purpose, the Central Government agreed to the said offer. The State of Bihar acquired 44000 acres of land by issuing notification u/s 4 part II of the Land Acquisition Act for erection of an iron and steel plant for public purposes at the public expenses. The Central Government ultimately agreed to the concessions, assurances and promises of the State Government and agreed to set up 4th Steel Plant at Bokaro in the State of Bihar (now Jharkhand). Series of negotiations and correspondences exchanged between the Central Government and the State Government and joint meetings were held where it was agreed that 4th Steel Plant at Bokaro shall be set up and in order to minimize the

burden of cost of the acquisition of land, the Central Government agreed to pay a ceiling price of Rs. 1900/- per acre for the land acquired in 1956 and for subsequent acquisitions after 1961 onwards, the Central Government agreed to pay and fix a ceiling price at Rs. 3800/- per acre. It was specifically clarified that any amount over and above the minimum ceiling price fixed will have to borne by the State Government and not by the Central Government. In this way, the Project work for establishment for iron and steel plant at Bokaro started in the year 1960 onwards through Hindustan Steel Limited. Later on, Bokaro Steel Limited was incorporated fully owned by the Central Government because 100% shares were held by the President of India and the Company started erection and construction of iron and steel plant from 1961 with the assistance and in collaboration with the Government of the then USSR. It is worth to mention here that the Central Government through Bokaro Steel Plant deposited the entire amount as agreed for the acquisition of the land and the possession of the entire land as also the land subsequently acquired by the State Government were handed over to the Bokaro Steel Plant.

22. For better appreciation, it would be most appropriate to reproduce one of the notifications issued u/s 4 of the Land Acquisition Act acquiring 15883.94 acres of land. Copy of this said notification is filed in the court below and marked Ext.8. The notification reads as under:

Government of Bihar

Revenue Department

Notification 9059 R dated 9.8.1956

Whereas it appears to the Government of Bihar that land is required to be taken by Government at the public expenses for a public viz for erection of Iron and steel Plant in the village Panchora No. 1 Baidhmara No. 2 Kanfatta No. 3, Maheshpur No. 4, Kairakundi No. 5, Mahuar No. 6, Nohra No. 7, Asansol (part) No. 3, Tilabani (part) No. 11, Harila (part) No. 12, Jolhabandh No. 13, Patharkatta No. 14, Chakpandei No. 16, angjuri No. 17, Pindergoria No. 18, Bharra No. 19, Ranipokhar No. 20, Bhatua No. 21, Dhandabara No. 22, Thata chzs Zila Manbhum ig is hereby notified that the above purpose a piece of land measuring more or less 15883.94 acres bounded on the:

North - By the Demodar River East - By the Graga Nala. South - By the Maraphari to Chas Road, West - By the Thana Boundary of Thana Paterwar District Hazaribagh It is required within the aforesaid villages of Panchora No. 1 Baidhmara No. 2 Kanfatta No. 3, Maheshpur No. 4, Kairakundi No. 5, Mahuar No. 6, Nohra No. 7, Asansol (part) No. 3, Tilabani (part) No. 11, Harila (part) No. 12, Jolhabandh No. 13, Patharkatta No. 14, Chakpandedi No. 16, angjuri No. 17, Pindergoria No. 18, Bharra No. 19, Ranipokhar No. 20, Bhatua No. 21, Dhandabara No. 22,

This notification is made, under the provision of Section 4 of Act 1 of 1894 as

amended by act XXXVIII 1923 to all whom it may concern.

Objection to the acquisition, if any, filed u/s 5A but any persons interested within the meaning of that section on or before the before the Land Acquisition Officer, Ranchi will be considered.

Sd/- Land Acquisition Officer Sd/- Dy. Commissioner

Palamau-cum-Ranchi Purulia (Manbhum)

23. Similar notifications were time to time issued by the State of Bihar u/s 4 of the Land Acquisition Act for the acquisition of land for public purposes at public expenses. It is, therefore manifestly clear that lands were acquired under Part II of the Act for public purposes and at the public expenses. In spite of that, whatever compensation originally awarded by the Collector was paid by the respondent-Bokaro Steel Plant of Steel Authority of India Limited. Thereafter, several reference cases were filed u/s 18 of the Act and in those cases, amount of compensation have been enhanced by the Land Acquisition Judge. Against those judgments and awards passed by the Land Acquisition Judge, the appellant-State of Bihar (now Jharkhand) preferred appeals for the reasons or with the apprehension that enhanced amount of compensation or the compensation over and above agreed by the Central Government shall have to be paid by the Central Government.

24. As noticed above, by reason of various orders passed by this Court, respondent-Company ultimately agreed to pay the entire compensation amount so enhanced by the Land Acquisition Judge. The respondent-Company also agreed to pay compensation to the applicants whose applications u/s 28A are pending.

25. As stated above, the lands have not been acquired under Part VII of the Act for the Company, rather it was acquired under Part II of the Act for the public purpose. Provisions of Part VII shall not apply in the present case. Moreover, Section 44B of the Act makes it clear that no lands shall be acquired under Part VII for Government companies like Bokaro Steel Plant of Steel Authority of India Limited.

26. Recently, in the case of "Devinder Singh and Ors. v. State of Punjab and Ors." AIR SCW 6692, the Supreme Court observed that different procedure is to be adopted for acquisition of land for public purposes under Part II and acquisition of land for the companies under Part VII of the Act. Their Lordships observed:

When a request is made by wing of the State or a Government company for acquisition of land for a public purpose, different procedures are adopted. Where, however, an application is filed for acquisition of land at the instance of a "company", the procedures to be adopted therefore are laid down in Part VII of the Act. Although it may not be decisive but the conduct of the State as to how it intended to deal with such a requisition, is a relevant factor. The action of the

State provides for an important condition to consider as to whether the purpose where for a company requests it for acquisition of land is a public purpose and/or which could be made at public expenses either as a whole or in part, where for evidently provisions laid down in Part II shall be recorded to. On the other hand, if the State forms an opinion that the acquisition of land at the instance of the company may not be for public purpose or, therefore the expenses to be incurred therefore either in whole or in part shall not be borne by the State, the procedures laid down in Part VII thereof have to be resorted to. The procedures laid down under Part VII of the Act are exhaustive. Rules have been framed prescribing the mode and manner in which the State vis-a-vis the company should proceed. It provides for previous consent of the Appropriate Government, execution of the agreement, previous inquiry before a consent is accorded, publication of the agreement, restriction on transfer, etc. It also provides for statutory injunction that no land shall be acquired except for the purpose contained in Clause (a) of Sub-section (1) Section 40 of the Act for a private company which is not a Government company. For the purpose of Section 44B of the Act, no distinction is made between a private company and a public limited company.

27. So far acquisition of land is concerned, it is not the case of the State of Bihar or the State of Jharkhand that lands were acquired in 1956 and subsequent thereto not for public purposes at public expenses nor is the case of the State that acquisition was made under Part VII of the Act and for that purposes, respondent executed an agreement before the acquisition of the land as contemplated under Part VII of the Land Acquisition Act.

28. The land on being acquired and taken possession of by the Collector vests in the first instance absolutely in the Government u/s 16 of the Act. In the case of acquisition for company, where the provisions of Sections 38 to 42 are applied. Government transfers the land by a deed of transfer stipulating the terms on which transfer is made. In case acquisition of land is made for local authorities, the only thing need to be done is to ordinarily making over the land and the terms are governed by the limitations in the Acts relating to the constitution, powers and functions of such authorities. Some of these Acts, however, contain specific provisions of vesting on payment of the cost of the acquisition, but here also the power derived from such "vesting" are governed by the provisions relating to constitution powers and functions of such authorities, in the respective Acts.

29. As a matter of fact, vesting of such property is only for the purpose of executing any improvement scheme which it has undertaken and not with a view to clothing it with complete title. The term "vesting" has a variety of meaning which has to be gathered from the context in which it has been used. It may mean full ownership or only possession for a particular purpose or clothing the authority with power to deal with the property as the agent of another person of authority. Once the Collector makes his award u/s 11 of the Act and takes

possession of the land, two consequences follow, i.e. (i) the acquired land absolutely vests in the Government, and (ii) such vesting is free from all encumbrances. By virtue of Section 16 of the Act, the acquired land has vested absolutely in the Government free from all encumbrances. The vesting is equally effective and complete in the case of acquisition undertaken by the Government for the purpose of setting up steel plant at the instance of the Central Government so as to vest the property in the Central Government Company namely, Steel Authority of India Limited.

30. In Black's Law Dictionary, the word "vest" means to confer ownership of property upon a person, to invest a person with full title to the property, to put a person into possession of a land.

31. In Wharton's Law Lexicon (fourteenth edition), the word "vest" means either to place in possession, to make possession of or to give absolute interest in property.

32. In Law Lexicon by P. Ramanath Aiyer, the word "vest" has been defined in same way to place in possession, to take possession of, to take an interest in property.

33. The word "vest" is a word of variable import. The word "vest" has not got a fixed connotation, meaning in all cases that the property is owned by the person or the authority in whom it vests. It may vest in title or it may vest in possession, or it may vest in a limited sense, as indicated in the context in which it may have been used in a particular piece of legislation.

34. The Maxim *lex injusta non est lex* has to be applied which means a statute must be construed justly. An unjust law is no law at all.

35. While interpreting a statute the Supreme Court in the case of *Kailash Chand and Another Vs. Dharam Das*, observed:

We find it difficult to accept the construction placed on the third proviso, in para 14 of the judgment in *Molar Mal case* (2004) 4 SCC 285. In *Rakesh Wadhawan and Others Vs. Jagdamba Industrial Corporation and Others*, this Court has held that a statute can never be exhaustive. The legislature is incapable of contemplating all possible situations which may arise in future litigation and in myriad circumstances. The scope is always there for the court to interpret the law with pragmatism and consistently with the demands of varying situations. The construction placed by the court on statutory provisions has to be meaningful. The legislative intent has to be found out and effectuated.

"Law is part of the social reality."

(see *Law in the Scientific Era* by Justice Markandey Katju, 2000 Edn.p.33)

"Though law and justice are not synonymous they have a close relationship, as pointed out by the American jurist Rawls. Since one of the aims of the law is to provide order and peace in society, and since order and peace cannot last long if

it is based on injustice, it follows that a legal system that cannot meet the demands of justice will not survive long. As Rawls says: "Laws and institutions no matter how efficient and well arranged, must be reformed or abolished if they are unjust." (ibid, p.72)

Clearly, law cannot be so interpreted as would cause oppression or be unjust.

36. It has been well settled by the Supreme Court that cardinal principle of interpretation of statute that the words of a statute must be understood in their natural, ordinary or popular sense and construed according to their grammatical meaning, unless such construction leads to some absurdity or unless there is something in the context or in the object of the statute to suggest to the contrary. It must be consistent with the intention of the legislature and object of the statute.

37. In the case of "Union of India and Ors. v. Filip Tiago De Gama of Vedem Vasco De Gama" AIR 1990 SC 981 the Supreme Court while interpreting Section 23(2) of the Land Acquisition Act as amended in 1984 observed:

16. The paramount object in statutory interpretation is to discover what the legislature intended. This intention is primarily to be ascertained from the text of enactment in question. That does not mean the text is to be construed merely as piece of prose, without reference to its nature of purpose. A statute is neither a literary text nor a divine revelation. "Words are certainly not crystals, transparent and unchanged" as Mr. Justice Holmes has wisely and properly warned. (Towne v. Eisher (1918) 243 U.S. 418. Learned Hand, J., was equally emphatic when he said: "Statutes should be construed not as theorems of Euclid, but with some imagination of the purposes which behind them". (Lenigh Valley Coal Co. v. Yensavage 218 FR 547 at 553).

38. Their Lordships further observed:

17. Section 30(2) provides that amended provisions of Section 23(2) shall apply, and shall be deemed to have applied, also to, and in relation to, any award made by the Collector or Court between 30 April, 1982 and 24 September, 1984, or to an appellate order therefrom passed by the High Court or the Supreme Court. The purpose of these provisions seems to be that the awards made in that interregnum must get higher solatium inasmuch as to awards made subsequent to 24 September, 1984. Perhaps it was thought that awards made after the commencement of the Amending Act 68 of 1984 would be taken care of by the amended Section 23(2). The case like the present one seems to have escaped attention by innocent lack of due care in the drafting. The result would be an obvious anomaly as will be indicated presently. If there is obvious anomaly in the application of law the Court could shape the law to remove the anomaly. If the strict grammatical interpretation gives rise to absurdity or inconsistency, the Court could discard such interpretation and adopt an interpretation which will give effect to the purpose of the legislature. That could be done, if necessary even by modification of the language used. (See: Mahadeolal Kanodia Vs. The

Administrator-general of West Bengal, . The Legislators do not always deal with specific controversies which the Courts decide. The incorporate general purpose behind the statutory words and it is for the Court to decide specific cases. If a given case is well within the general purpose of the legislature but not within the literal meaning of the statute, then the Court must strike the balance.

39. As noticed above, the Revenue Secretary, Government of Jharkhand, in the affidavit, as brought hereinabove, very categorically admitted that possession of the entire land was handed over to the then respondent-company. Para. 11 of the affidavit is reproduced again which reads as under:

11. That, the lands had been acquired decades ago and with the acquisitions of the land the entire lands had been handed over to the then Hindustan Steel Ltd. (HSL), now the SAIL (Bokaro Steel Plant) and accordingly Bokaro Steel Plant was established. The entire acquired lands since the time of such acquisitions are under the management and control of the SAIL (Bokaro Steel Plant) and the State Government has no role in any such management and control of such acquired lands. The SAIL (Bokaro Steel Plant) now can not ask or insist the State Government to put it in possession of any particular piece of land including the so called 824.855 acres of land given in the BSP/SAIL affidavit in view of the fact that the lands have already been put under the possession of the SAIL (Bokaro Steel Plant) or are under their deemed possession and if there has been any encroachment/illegal occupation by any one, it had occurred while it was under the management and control of SAIL (Bokaro Steel Plant) and, as such, the State Government can not give any undertaking that it would put the SAIL (Bokaro Steel Plant) in possession of any such land(s) which have been occupied by local persons(s). However, the State Government shall provide help and assistance to the SAIL (Bokaro Steel Plant) in evicting them in due proceedings at the initiative of SAIL (Bokaro Steel Plant), but that would be only on the request of the SAIL (Bokaro Steel Plant).

40. Considering the fact that the entire kind was acquired by the State Government under Part II of the Act for public purposes and at the public expenses for setting up iron and steel industry in the name of Bokaro Steel Plant and possession of the entire land was given to the respondent-company, I shall have no hesitation in holding that by legal fiction, the entire acquired land vested in respondent-company, namely Bokaro Steel Plant of Steel Authority of India Limited free from all encumbrances. I further hold that provisions contained in part VII of the Act is not applicable in the present case, as a result of which the formality of execution of deed of conveyance by the State in favour of the respondent-company as contemplated u/s 41 does not arise. The vesting of the land in the respondent-SAIL became effective and complete.

41. Having regard to the entire facts and circumstances of the case particularly the fact that the respondent - Bokaro Steel Plant (SAIL) deposited Rs. 70 Crores and the entire land vested in the said company, we dispose of these appeals with the following directions:

(i) the enhanced compensation awarded by the Land Acquisition Judge against which 46 appeals are pending shall be paid to the claimants of these appeals together with interest and other benefits.

(ii) the Land Acquisition Officer before whom 10,312 cases u/s 28A are pending, is directed to take up all those cases and dispose of the same by passing reasoned order or preferably through the alternative forum like Lok Adalat. The amount so assessed/settled shall be paid to them out of the amount deposited by the respondent-Company.

(iii) If any further amount is required for payment by way of compensation to the land losers whose lands have been acquired, the same shall be paid by the respondent-Steel Authority of India Limited.

(iv) As agreed by the respondent-SAIL the lands in occupation of the State of Jharkhand for the use of local authorities and different offices of the State Government shall continue to be occupied by the Government and shall not be asked to be handed over to the Bokaro Steel Plant (SAIL). Further whatever expansion of Government Offices is done in future at Bokaro (SAIL) shall provided land to the Government free of cost.

42. So far contempt notice issued against the Hon"ble Revenue Minister for his letter asking the respondent-SAIL to return surplus lands alleging that the Bokaro Steel Plant had agreed to produce 10 million tones steal, are producing only 4 million tones of steel, we seriously deprecate issuance of such kind of letter by the Minister. However, since the Hon"ble Minister in his show cause has stated that he had no intention to interfere with the court proceeding and he had issued letter in question innocently and bonafidely, we do not want to proceed any further in the contempt matter.

43. As a result of the protracted litigation, the worst sufferers are the persons whose lands have been acquired without payment of any compensation to them. Equal sufferer is the industry for whose purpose the land was acquired, since despite the acquisition, the lands could not be utilized fully for expansion of the industry. It is ironical the despite the State being one of the richest States in the country with its rich resources of mines and minerals including iron ore, yet the State has not flourished in comparison to other States with lesser resources. One of the reasons for the lack of development in the State which can reasonably be inferred is the total apathy and lack of a positive and responsive attitude of the Government. It is high time that the persons who are at the helm of affairs in the Government should broaden their vision and take all positive steps to facilitate the growth of the industries including iron and steel plants in the State.

With the aforesaid directions and observations, these Appeals are disposed of.