
(2011) 01 PAT CK 0128
In the Patna High Court
Case No : CWJC No. 16856 of 2008

Tanki Devi and Others

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 06-01-2011

Acts Referred:

Constitution of India, 1950 — Article 12, 21, 300A

Citation : (2011) 2 PLJR 640

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Judgement

V.N. Sinha, J.—Counsel for the Petitioners is permitted to correct the description of Respondent Nos. 13 and 15.

2. Heard learned Counsel for the Petitioners, State and the counsel for Respondent Nos. 13 and 15 (National Project Construction Corporation Limited) .

3. This writ petition has been filed by 29 Petitioners who claim that their raiyati land has been encroached upon by the authorities including Respondent Nos. 13 and 15 for raising a road under the Prime Minister's Rural Road Project. The fact that raiyati land of the Petitioners has been utilized for raising/broadening of the village road without acquisition or their consent is evident from the report of the Circle Officer, Sarmera as also of the District Magistrate, Nalanda dated 12.4.2008 and 11.4.2008, contained in Annexures-5 and 3 to this application.

4. It is submitted on behalf of the Petitioners that they are poor peasants and have been deprived of their landed property without any authority of law, and thus they are required to be suitably compensated for the sufferance already undergone by them on account of deprivation of livelihood from the lands-in-question by forcibly raising of the road over the same by the executing agency, Respondent Nos. 13 and 15. In this connection, reference is made to the provisions of Article 300A of the Constitution of India and it is submitted that deprivation of property without any authority of law may not be infracting the

fundamental rights of the Petitioners but as the Petitioners are small peasants by raising the road on their source of livelihood the authorities and the executing agent, Respondent Nos. 13 and 15 have infringed Article 21 by depriving the Petitioners of their source of livelihood and Petitioners are entitled for suitable compensation. It is further submitted by the counsel for the Petitioners that reliance placed by the counsel for Respondents over the order of this Court in the case of Ashok Kumar and grand Vs. The Union of India and Others, is wholly misplaced as perusal of paragraph 3 of the said order would show that Petitioner of the said case had no objection in the road being laid rather he wanted to be compensated for his raiyati land taken for laying the road.

5. Counsel for the executing agency which is a Government of India Company and State within the meaning of Article 12 of the Constitution submitted with reference to the petition of the villagers dated 6.5.2008, Annexure-R/1 to the counter affidavit that other villagers barring the Petitioners were/are quite keen on the development of the road in question. In appreciation of the larger public interest the road in question has been raised/laid but considering the report of the Circle Officer, Sarmera and Collector, Nalanda the portion of the raiyati land of these 29 Petitioners over which the executing agency has raised/laid the road without the explicit consent of Petitioners, the executing agency is ready and willing to shift the alignment of the road-in-question so as to free the raiyati land of the Petitioners by removing the road therefrom.

6. In appreciation of the aforesaid submission of the learned Counsel for the executing agency the agency is directed to shift the alignment of the road-in-question within three months from the date of receipt of a copy of this order and to free the raiyati land of the Petitioners by removing the road as per the finding of the Circle Officer, Sarmera and the District Magistrate, Nalanda. Having removed the road from the raiyati land of the Petitioners the executing agency, Respondent Nos. 13 and 15 should restore the land of the Petitioners in the same state in which the land was before the laying of the road. Having restored the land to the preexisting position, the executing agency, Respondent Nos. 13 and 15 shall also compensate the Petitioners of the loss which they have suffered on account of raising of the road and deprivation of cultivation over the land for a period of almost two years. Compliance of this order be made by the executing agency, Respondent Nos. 13 and 15 within three months from today.

7. The writ application is, accord; ingly, disposed of.