

(2004) 02 PAT CK 0079
In the Patna High Court
Case No : L.P.A. No. 170 of 2004

The Bihar State Housing Board and Another	APPELLANT
Vs	
Dr. Shrawan Kumar Roy Choudhary	RESPONDENT

Date of Decision : 16-02-2004

Acts Referred:

Citation : (2004) 02 PAT CK 0079

Final Decision : Dismissed

Judgement

1. This matter relates to a track of land which is now commonly known as "Digha land". There is much litigation generated by the Bihar State Housing Board and the State of Bihar on this matter. The details are not in this petition but otherwise the Court can take notice that this matter had been taken right up to the Supreme Court where it was certified that the power exercised by the State of Bihar to acquire the land for a public purpose for making a planned residential colony was intra vires. This is the matter of Chandra Bansi Singh and Others Vs. State of Bihar and Others, In effect, the Supreme Court certified that the State of Bihar had rightly exercised its powers, its sovereign powers to acquire land, and possess it. In the circumstances, today the land vests with the State of Bihar and Bihar State Housing Board was and is its agent. The Bihar State Housing Board has filed this appeal.

2. Between the State government and the Board they frustrated their own schemes. The State of Bihar had no hesitation in using its sovereign powers to acquire the land of others, that is, the agriculturists and some others by dislocating them for making a planned housing colony. Today they have made a mess out of both the situations. Those whose lands were acquired some have not received compensation, some have made a business out of transferring it twice and have earned money out of transfer of acquired land and yet others have occupied acquired land illegally even disrespecting the Supreme Court judgment. On this track of land now have been settled with tacit consent of the State of Bihar persons with clout and power. These are very important persons, and do

not exclude some connected with the judiciary and its staff. When sovereign powers are exercised to acquire land, it vests with the State free from all encumbrances. Any complications or lack of will not to possess or keep such lands is collusion with the land mafia by the State. It is in this regard that the Supreme Court had observed in these very matters in the very first paragraph of its judgment, thus:

Sometimes while taking a pragmatic and progressive action under a statute in the general public interest, which is doubtless a step in the right direction, the Government succumbs to internal or external pressures by a citizen or group of citizens so as to show special favour to them which destroys the laudable object of the nature of the action. Such a course is adopted to help a few chosen friends at the cost of the people in general and frustrates the very object of the meaningful State action. Furthermore, the State action brings it into direct collision with Article 14 of the Constitution of India.

3. The Bihar State Housing Board has now two choices either to give a plot to the persons to whom it was allotted or return their money with interest which is equitable. Learned Judge has committed no error in the order which the Board is attempting to challenge in this appeal.

4. The Court also has reservations whether the Board which is a creature of a statute and the State in all its attributes can utilise the provision of a Letters Patent Appeal. It is like the Crown filing an appeal. Is this possible?

5. Dismissed.