

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11734 of 1992

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Nirmal Kumar Sinha, Son of Late Ramanand Prasad, resident of Mohalla-Shri Nagar Siwan, Town, P.S.-Siwan Town, P.O.-Siwan, District-Siwan.

.... **Petitioner/s**

Versus

1. The State of Bihar.
2. The District Land Acquisition Officers, Siwan.
3. The Additional Collector, Siwan.
4. Daroga Prasad Roy College, Siwan, P.S. & District-Siwan through Sri Awadh Bihari Choudhary, Secretary, Daroga Prasad Roy College, Siwan.

.... **Respondent/s**

With

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Civil Writ Jurisdiction Case No. 2980 of 1993

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Nagendra Pd., Son of Late Bhagwati Pd., resident of Mohalla-Srinagar, P.S.-Siwan Mofassil, P.O.-Siwan, District-Siwan.

.... **Petitioner/s**

Versus

1. The State of Bihar.
2. The District Magistrate Cum Collector, Siwan Cum Add. Collector.
3. The Land Acquisition Officer, Siwan.
4. The Daroga Prasad Ray Mahavidyalya, Siwan through their Secretary, Siwan.
5. The Intermediate Council, Bihar Patna through their Principal Secretary, Bihar, Patna.
6. Shri Baban Prasad, Son o Late Bhagwati Prasad, resident of Mohalla-Shri Nagar, P.S., P.O. and Distrcit-Siwan.

.... **Respondent/s**

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Appearance :

(In CWJC No. 11734 of 1992 and CWJC No. 2980 of 1993)

For the Petitioner/s : Mr. Ranjan Kumar Dubey, Adv.
: Mrs. Sangeeta Sharma, Adv.

For the Respondent No. 4 : Mr. Binay Kant Mani Tripathi, Adv.
For the State : Mr. Purnendu Singh, Adv. (GP27)
: Mr. Niranjana Kumar, Adv. (AC to GP27)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 30-03-2015

Heard the parties.

These are the applications seeking quashing of the orders, respectively, dated 30.10.1991 and 01.02.1988, as contained in Annexure-1 to these writ applications, passed by the Additional Collector, Siwan in Land Acquisition Case No. 5 of 1982-83 and Notification No. 1/Ka (MU) and proceeding of Case No. 2 of 1992-93 arising out of Land Acquisition Case No. 5 of 1982-83, whereby, he has rejected the petitioners' objection under Section 5 (A) of the Land Acquisition Act, 1894.

The plots, in question, have been described in Paragraph No. 4 and Paragraph No. 1 of the writ applications, respectively, as Khata No. 158/Plot No. 158 (area 40 decimals), Khata No. 69/Plot No. 160 (area 35 decimals) and Khata No. 16/Plot No. 161 (part) (area 31½ decimals) of village-Kandhawara, part of Siwan town and S.P. No. 151 (measuring

0.05 acres) and S.P. No. 145 (measuring 0.12 acres), both appertaining to Khata No. 143 in village-Kandhwara, P.S.-Siwan Mufasil, Anchal-Hussainganj, District-Siwan.

While admitting this writ application, bearing no. 11734 of 1992, by an order dated 12.04.1993; the operation of the impugned order to the extent it relates to the petitioner was directed to be stayed. By order dated 15.04.1993, while admitting C.W.J.C. No. 2980 of 1993, this Court had stayed the proceedings of Land Acquisition Case No. 5 of 1982-83 as also Case No. 2 of 1992-93 and the matter was directed to be listed along with C.W.J.C. No. 11734 of 1992. Apparently, there could be no progress, thereafter, towards acquisition of the lands in question.

In the meanwhile, during the pendency of these applications, **“The Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013”** came into force with effect from 26.09.2013. Section 24 of the said Act provides that the land acquisition process under Bihar Land Acquisition Act, 1894 shall be deemed to have lapsed in certain circumstances. The circumstance includes a situation where no award under Section 11 of the said Land Acquisition Act has been made. Section 24 of the Act reads thus:-

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),—

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation, rehabilitation and resettlement shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been accepted, then, all beneficiaries specified in the notification for acquisition under section 4 of

the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

Admittedly, no award has been prepared on the basis of the land acquisition proceeding in question. There is no question of payment of compensation therefore. Therefore, in my opinion, by operation of Section 24 of the Act, the land proceeding in question lapsed.

It is held, accordingly. These applications are thus disposed of.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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