

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18742 of 2011

With

Interlocutory Application No. 2139 of 2014

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1. Quamrul Hoda son of Qamruddin Hoda, resident of Village and P.O. Chakla, P.S. Kishanganj, District - Kishanganj

2. Shams Kumar son of Qamruddin Hoda, resident of Village and P.O. Chakla, P.S. Kishanganj, District - Kishanganj

3. Md. Sherjahan son of Qamruddin Hoda, resident of Village and P.O. Chakla, P.S. Kishanganj, District - Kishanganj

4. Pusman Devi wife of Inder Lal Yadav, resident of Village - Simalbari, P.O. Gachhpara, P.S. Kishanganj, District - Kishanganj

5. Sudhan Lal Yadav son of Debu Lal Yadav, resident of Village - Simalbari, P.O. Gachhpara, P.S. Kishanganj, District - Kishanganj

6. Panchu Lal Yadav son of Debu Lal Yadav, resident of Village - Simalbari, P.O. Gachhpara, P.S. Kishanganj, District - Kishanganj

7. Narayan Lal Yadav son of Debu Lal Yadav, resident of Village - Simalbari, P.O. Gachhpara, P.S. Kishanganj, District - Kishanganj Petitioner/s

Versus

1. The State of Bihar

2. The Principal Secretary, Department of Revenue, Government of Bihar, Patna

3. The District Magistrate, Kishanganj

4. The Additional Collector, Land Acquisition , Kishanganj, District - Kishanganj

5. The District Land Acquisition Officer, Kishanganj, District - Kishanganj

6. The Sub-Divisional Officer, Kishanganj, District- Kishanganj

7. The Circle Officer, Kishanganj Block, District - Kishanganj

8. The Bihar State Industrial Development Corporation, Patna through the Managing Director

9. The Managing Director, the Bihar State Industrial Development Corporation, Patna

10. The Bihar Industrial Area Development Authority, Patna through the Managing Director

11. The Managing Director, the Bihar Industrial Area Development Authority, Patna

12. Kishanganj College of Engineering and Technology, Kishanganj through the Director Dr. Imam, resident of Mohalla - Line Bazar, Purnea, P.O. & P.S. Purnea, District - Purnea

13. M/S Jai Laxmi Store, Kishanganj through the Proprietor Raj Kumar Agrawal, resident of Nimchand Road, P.O. & P.S. Kishanganj, District - Purnea

... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar Manglam, Advocate
Miss Kumari Ranjana Bharti, Advocate

For the Respondent nos. 1 to 7 : Mr. Rajesh Kumar, AC to GP 28

For the Respondent Nos.10 & 11 : Mr.Rajeev Ranjan Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 16-09-2015

Heard the parties.

2. 48.40 acres of lands of different plot numbers, all situate at village Bhediadangi in the then district of Purnea (now District-Kishanganj) (hereinafter to be referred to as “the lands in question”) were acquired by the State Government by initiating a land acquisition proceeding under the provisions of The Land Acquisition Act, 1894 (in short, “Act, 1894”), which had given rise to Land Acquisition Case No. 59 of 1975, in which, indisputably, an award was prepared under Section 11 of the Act, 1894 and compensation was paid to the land owners and subsequently, possession over the same were taken in the year 1982 in terms of Section 16 of the Act, 1894, as a result thereof, it vested in the State of Bihar free from all encumbrances. Now, its usability or allotment in favour of the respondent nos. 12 and 13 is being questioned by the previous land owners, after about three decades of acquisition of the lands in question.

3. It is the case of the petitioners that father of petitioner nos. 1 to 3 had purchased certain area of lands of Khata No. 8 from one Shibu Lal Yadav in the year 1967. Petitioner no.4 to 7 claim to be the erstwhile owners of remaining area of lands of Khata Nos. 6 and 8, which were the subject matter of acquisition in the aforesaid land acquisition proceeding. Though full details of the aforesaid land acquisition proceeding or the different notifications issued under the Act, 1894 with respect to the lands in question have not been given in the writ petition, but it has been admitted in the writ petition that for the purposes of establishment of a Jute Mill in the present district of Kishanganj through the respondent Bihar State Industrial Development Corporation, a land acquisition proceeding was started by the State of Bihar and its functionaries for acquisition of 48.40 acres of land belonging to the petitioners, which gave rise to Land



Acquisition Case No. 59 of 1975. It is not in dispute that after disposal of the objections of the land owners under Section 5 A of the Act, 1894 a notification dated 12.10.1977 was issued by the District Land Acquisition Officer, Purnea making a declaration that the lands in question are required for the public purposes. A copy of declaration made under Section 6 of the Act, 1894 by notification dated 12.10.1977 has been brought on record as Annexure A to the counter affidavit filed on behalf the respondent no.10. It is the admitted case of the parties that after following the procedure, an award was prepared under Section 11 of the Act, 1894 and accordingly compensation was paid to the land owners i.e. the petitioners or their ancestors and finally possession over the lands in question was taken on 16.03.1982 in terms of Section 16 of the Act, 1894. In that view of the matter, lands in question vested in the State of Bihar free from all encumbrances.

4. Acquisition of the lands in question made by the State of Bihar on the basis of Land Acquisition Case No. 59 of 1975 was not challenged by the petitioners or their ancestors for about three decades. In the meantime, for one reason or the others, Jute Mill proposed at the location in question could not be established by the respondent Bihar State Industrial Development Corporation. Therefore, the lands in question were subsequently transferred to the respondent Bihar State Industrial Development Corporation by the respondent no.1, the State of Bihar, whereafter by allotment letter dated 02.09.2009 (Annexure-J to the counter affidavit filed on behalf of the respondent no.10) an area of 435600 sq.ft. was allotted in favour of Kishanganj College of Engineering & Technology and by allotment letter dated 04.01.2010 (Annexure-K to the aforesaid counter affidavit) an area of 1000 sq.ft. has been allotted to M/s Durga Industries for the purposes of establishment of Zinc Electro

Plating of M.S/C.R. Pipes Industry for 90 years.

5. Though argument was made by the learned counsel for the petitioners for a quite long time, but despite repeated query, he has not been able to show any legal right of the petitioners over the lands in question, which vested in the State of Bihar way back in the year 1982 under the provisions of Section 16 of the Act, 1894. He has also not been able to show that even if the lands in question acquired for a particular purpose could not be utilized by the State Government, then it cannot be utilised for any other public purpose, or the lands in question shall revert to the original lands-owners. He has simply placed reliance on an Executive Instruction no. 154 issued by the State Government for acquisition of lands under the provision of the Act, 1894. The plain reading of the Executive Instruction No. 154 does not show that if an area of the acquired lands remains surplus, then it shall revert to the original land owners. It only contemplates that if certain area of land acquired for public purposes could not be unutilized by the Department for which land was acquired, then that much area of land is required to be relinquished and that may be used by any other Department in the manner indicated in that Executive Instruction.

6. This Court is of the considered opinion that once lands in question were acquired and possession over the same was taken about three decades earlier after payment of compensation to the petitioners or their ancestors i.e. land owners, then they are not legally entitled to question the manner in which the lands so acquired by the State Government is to be utilized. This issue is no longer a res integra, as the identical issue came up for consideration before the Hon'ble Apex Court in the recent past in the case of **Leela Wanti Vs. State of Haryana [AIR 2012 SC 515]**. Paragraphs 2, 13 and 17 of the aforesaid judgment appropriately answer all the issues raised on

behalf of the petitioners in the present writ petition. For better appreciation, paragraphs 2, 13 and 17 of the aforesaid judgment are being re-produced hereinbelow:

“2: Whether the State Government is under an obligation to return the required land to the owners after the purpose of acquisition is accomplished is the question which arises for consideration in this appeal filed against order dated 21.1.2008 passed by the Division Bench of the Punjab and Haryana High Court in Civil Writ Petition No. 9152 of 2007”.....

“13: We have considered the respective submissions and examined the records. In our view, the High Court did not commit any error by not entertaining the appellants’ challenge to the acquisition of land because they did not offer any explanation for the long time gap of more than three decades between the issue of notifications under Sections 4 and 6, i.e., 1976 and filing of the writ petition,i.e.,2007”.....

“17 : A reading of the above reproduced Paragraph of the Land Administration Manual nowhere suggests that the State Government is duty-bound to restore the acquired land to the owners after the purpose of acquisition is accomplished. It merely mentions that as a matter of grace the Government is usually willing to restore agricultural and pastoral land to the owners on their refunding the amount of compensation. If Paragraph 493 is read in the manner suggested by the learned counsel for the appellants then in all the cases the acquired land will have to be returned to the owners irrespective of the time gap between the date of acquisition and the date on which the purpose of acquisition specified in Section 4 is achieved and the Government will not be free to use the acquired land for any other public purpose. Such an interpretation would also be contrary to the language of Section 16 of the Act, in terms of which the acquired land vests in the State Government free from all encumbrances and the law laid down by this Court that lands acquired for a particular public purpose can be utilized for any other public purpose.”

7. The principles enunciated by the Hon’ble Apex Court in the case of **Leela Wanti Vs.State of Haryana (supra)** squarely cover all the main issues raised on behalf of the petitioners in the present proceeding. Therefore, this Court is of the considered opinion that other subsidiary issue raised on behalf of the petitioners in the present proceeding are not required to be gone into.

8. The present writ petition is completely misconceived and is, accordingly, dismissed, but, in the facts and circumstances of the case, the parties are left to bear their own costs. I.A.No. 2139 of 2014 stands accordingly disposed of.

(Birendra Prasad Verma, J)

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