IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1565 of 2017

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1. Umesh Kumar @ Umesh Kumar Singh, Son of Late Abhay Nandan Singh, Resident of Village- Jasauli Kharg, Tole- Jurihata, P.O. and P.S.- Pachrukhi, District- Siwan.
2. Amresh Kumar Singh, Son of Sri Shivjee Singh, resident of Village- Jasauli Kharg, Tole- Jurihata, P.O. and P.S.- Pachrukhi, District- Siwan.

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
3. The District Magistrate, Siwan.
4. The Superintendent of Police, Siwan.
5. The Circle Officer, Pachrukhi, Siwan.
6. The Central Bank of India through its Chairman and Managing Director, Chander Mukhi, Nariman Point, Mumbai-400021
7. The General Manager, Central Bank of India, Patna Zone, B. Block, 2nd Floor, Maurya Lok Complex Patna-800001
8. The Regional Manager, Central Bank of India, Regional Office, Baluatal, Motihari.
9. The Chief Manager, Central Bank of India, Chapra Branch, Chapra.
10. Vinay Kumar Singh, Son of Kashinath Singh, Resident of Mohalla- Pakri Bangali, Neelkamal Hospital, P.S. Siwan Muffasil, District- Siwan.
11. Dr. Amir Rehan Lari, Son of Md. Rehan Lari, Resident of Allena Nursing Home, Mohalla- Sharif Colony, Ismail Shahid Road, P.S. Siwan Mufassil, District- Siwan.
12. Sheram Labs, Duly represented by its Proprietor Nikhat Perween, Wife of Md. Israil, Resident of Mohalla- Babunia Road, P.S. Siwan Mufassil, District-Siwan.
13. Arun Kumar Gupta Son of Rajmanjal Prasad Resident of Village- Langarpura, P.S. Mairwa, District- Siwan.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prashant Sinha
		Mr. Ashok Kumar Verma
		Mr. Rohan Verma
For the State	:	Mr. Raj Kishore Roy, GP 18
For the Bank	:	Mr. Ajay Kumar Sinha
For the intervenor-resps.	:	Mr. Kamal Nayan Choubey, Sr. Adv.
		Mr. Prashant Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

10 08-04-2019 The petitioners claim that they are residents of village Jasauli Kharg, falling in Pachrukhi Block, in the district of Siwan and that ancestors of petitioner no. 1 were owners of land, bearing Khesra No. 3321, 3322, 3323, 3335, 4288, 4289, 4290, 4331, 4332, 4344, 4352, 3303, in Khata No. 81, Tauzi No. 1226, Thana No. 351, Pargana-Bara, falling in village Jasauli Kharg. The aforesaid land, according to the petitioners, was recorded in the name of the mother of the great grandmother of petitioner no. 1, whose name has been recorded in the revisional survey khatiyan. The ancestor of petitioner no. 2, it is said, held lands, appertaining to Khesra No. 3341 and 3362, falling in Khata No. 134, Tauzi No. 1227, of same thana and village, which was recorded in the name of his great grandfather.

The petitioners have filed the present writ application seeking following five reliefs:-

> "(i) For issuance of necessary direction upon the respondent authority of the State Govt. to restrain from handing over the possession of the land situated in village Jasauli Kharg and Pachrukhi in Pachrukhi Block in the district of Siwan belonging to the Pachrukhi Sugar Mill to the private individuals pursuant to the auction made by the Debt Recovery Tribunal.
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> (ii) For holding that the land in both the

villages of Jasauli Kharg and Pachrukhi were acquired by the State Govt. in the year 1950 for public purpose and it was handed over to the Company under the terms and conditions of agreement between the State Govt. and the Company, wherein the Company had agreed to return back the land to the original land owners on payment of the cost of acquisition, if the Company is not in need of the land. The Company had also agreed to return back the land to the State Govt. whenever it is required by the State Govt.

(iii) For holding that the Company had no right to give the land, so acquired under the terms and conditions of an agreement, which provided the condition of returning back the land to the original land owners, as mortgage to the Bank for its loan and further the Bank had no right to sell the land acquired for the public purpose to the private individuals for satisfaction of its loan.

(iv) For holding that the public land cannot be sold out to the private individuals for satisfaction of the loan of the Company and the State Govt. is required to take action for taking possession of the land for any public purpose or for returning back the land to the descendants of original land owners.

(v) For necessary direction upon the respondent authorities to reclaim the land of Pachrukhi Sugar Mill and return back to the original land owners upon payment of cost of

> acquisition as provided in the terms and conditions of agreement."

The petitioners have filed an interlocutory application, vide I. A. No. 236 of 2019, seeking amendment for adding further two following reliefs:-

> "(i) For holding and declaring that any decree or order which has been passed against the statute, with particular reference to Section 44A of the Land Acquisition Act, 1894, is a nullity and it cannot be executed or enforced.
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> (ii) For necessary direction upon the respondent authorities to restrain the auction purchasers from making any construction over the land in question."

It has been asserted in the writ application that way back in the year 1950, the Bihar Sugar Works, a branch of Industrial Corporation Limited, a company incorporated under the Indian Companies Act, 1913, had entered into an agreement with the Governor of Bihar for acquisition of certain lands in the said villages for construction of a sugar mill. It has also been asserted that as per the terms and conditions of the agreement between the Company and the Governor of Bihar, if, at any point of time, the Government felt necessity to possess the said land for the purpose of revenue administration or for the purpose connected with public health, safety or necessity, the Company shall transfer the said land to the Governor of Bihar and the Governor would pay to the Company a sum equal to the amount of compensation awarded under the Act and paid by the Company in respect of the land. It was also provided in the agreement, according to the petitioners, that if the Company, at any point of time, decided to use the land for the purpose of cultivation, the original tenants would be given preference and when the Company did not require the land either in whole or in part, the same would be returned to the original tenants on the Company being paid the amount, which it had paid for acquisition of the land. The agreement, which the petitioners have referred to and heavily relied on, is, admittedly, not in their possession and certain documents by way of Annexure-3 has been brought on record which have been described as part of the said agreement. There is statement made in paragraph 10 of the application that the Government of Bihar had published a notification on 14.10.1950 for acquisition of land under Section 6 of the Bihar Land Acquisition Act, 1894, making a declaration for acquisition of 73 bighas 05 kathas 05 chitaks, equivalent to 24.22 acres of land for public purpose. It is the admitted case of the petitioners that their land do not fall under the said notification, dated 14.10.1950. The statements, made in paragraph nos. 11 and 12 in the writ application, in my opinion, needs to be quoted, which indicate hollowness of the claim of the petitioners as raised in the present application. Paragraph 11 and 12 are, therefore, quoted hereinbelow:-

> "11. That it would be necessary to point out that the land of the petitioners does not fall under the aforesaid notification, rather it was acquired under a separate notification. Since the petitioners are not having the documents relating to the acquisition with regard to the land of the petitioners, the petitioners are producing these documents in order to demonstrate that the similar pattern was followed with regard to the land of the petitioners. Meaning thereby that the land of the petitioners was also acquired under the similar terms by the State Govt. and it was handed over to the Behar Sugar Works under the similar terms.
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> 12. That it would also be relevant to point out that in the similar pattern the State Govt. acquired 124 bighas 16 kathas and 03 dhurs of land in Mauza- Jasauli Kharg and Pachrukhi and handed over the land for running the sugar mill and distillery to the Company."

It is, thus, the admitted case of the petitioners that their lands were not acquired under the Act and the so-called agreement, a part of which has been brought on record by way of Annexure-3, does not relate to the lands possessed by the ancestors of the petitioners. As has already been noted, it is the petitioners' claim that similar pattern was followed with regard to the land of the petitioners.

It is further asserted that Pachrukhi Sugar Mill was established, which was running up to 1974-75, when it was closed down though the distillery plant continued running up to the year 2002. The management of the Company, in course of time, changed. Certain loan was taken by the Company from the Central Bank of India, Chapra Branch (hereinafter refereed to as 'the Bank'), on giving the land on mortgage. The petitioners are unaware as to when the loan was taken and their attempt to obtain information in this regard under Right to Information Act also remained unsuccessful. It is further case of the petitioners that suddenly the petitioners learnt recently, when the police force reached the village, for demarcation of the land of the sugar mill, that the said land has been sold to private individuals and accordingly possession is being handed over to them under the orders of the District Magistrate, Siwan.

The writ application further refers to *e*-auction sale notice published by the Debts Recovery Tribunal, Patna (in short, 'the Tribunal'), pursuant to the order dated 03.11.2014, passed in R. P. Case No. 80 of 2000, whereby the entire acquired land in the villages were put on sale. It is the case of the petitioners that the land could not have been put on sale in the aforesaid manner since the land, which belong to the villagers of both the villages, was acquired by the State Government for public purpose, i.e. construction of a sugar mill, which could not be sold out to private individuals. It has been asserted that the villagers of both the villages were totally unaware as to what was going on in between the Company and the Bank. The petitioners further say that they are ready to pay the amount of acquisition paid by the Company, so that the land may be returned to them as per the terms and conditions of the agreement. Following is the statement made in paragraph 18 of the writ application in this regard:-

> "18. That the petitioners are ready to pay the amount of acquisition paid by the Company to the State Govt. so that the land may be returned to them as per the terms and conditions of agreement between the State Govt. and the Company. Similar is the case with the other villagers/land owners of both the villages of Jasauli Kharg and Pachrukhi."

As I have already noted, there is neither any pleading nor material to make out even a *prima facie* case that the lands of the ancestors of these petitioners were ever acquired by any means for the simple purpose of establishing their *locus standi* to maintain this writ application for the reliefs, as have been sought.

It is noteworthy that the petitioners did not implead the auction purchasers as party-respondents in the writ application. The auction purchasers, accordingly, filed an application for intervention, registered as I. A. No. 6758 of 2018, which has been allowed by an order, dated 30.10.2018, passed by this Court and accordingly they have been impleaded as intervenors-respondents 10 to 13.

What has been asserted in I. A. No. 6758 of 2018 has not been denied. It has been asserted that they are auction purchasers pursuant to the sale held by public auction on 27.05.2016 in execution of certificate drawn by the Presiding Officer of the Tribunal, in Ex (OA) No. 23 of 1999, dated 26.06.2000 and PT 04 of 1999.

I have heard Mr. Prashant Sinha, learned Counsel appearing on behalf of the petitioners, Mr. Kamal Nayan Choubey, learned Senior Counsel appearing on behalf of the intervenor-respondents and Mr. Ajay Kumar Sinha, learned Counsel representing the Bank. I have also heard Mr. Raj Kishore Roy, learned G. P. 18, representing the State of Bihar.

Counter affidavit has been filed on behalf of the Bank. The Bank has taken a plea, in the counter affidavit, that the mortgage deeds in respect of the plots, which, according to the petitioners, belong to their ancestors, were prepared on the basis of title deeds and as per the registered deeds, dated 20.09.1920, 01 bigha 09 kathas of land had been transferred to Ganesh Prasad Singh and S. Gangadhar Prasad Singh by Jugeshwar Mahtu, Bhagwat Mahtu, Mahabir Mahtu and Musammat Himachala. It may be pointed out that the said Himachala has been described by the petitioners as mother of the great grandmother of petitioner no. 1. The said land, it has been asserted, was transferred to Industrial Corporation Limited by the Western India Prospecting Syndicate Limited, through deed, dated 18.12.1923. It has been asserted that the Bank has many such deeds, on the basis of which mortgage has been created by the Bank. It has further been asserted that most of the deeds mortgaged with the Bank were registered prior to 1950. It has also been asserted that recovery proceedings in respect of the accounts are going on from 2000-01 and several newspaper publications had been made in this regard on the instructions of the Tribunal, since then. It has been specifically stated that only in 2015 and 2016, auction notices have been published in the

Bihar edition of Hindustan as well as other newspapers. In the year 2001, the movable properties of the Company were auctioned and in the year 2014, one lot of immovable property was auctioned by the Tribunal. These statements have been made to make out a case that it was within the knowledge of everyone in the locality that ICPL had taken loan from the Bank and for recovery of Bank dues, the Tribunal was conducting auction of movable and immovable assets of the Company.

A reply to the said counter affidavit has been filed on behalf of the petitioners, now asserting that the Company and the Bank have defrauded innocent villagers and authorities of the State Government, by getting the Mortgage Suit No. 42 of 1977 decreed on the basis of compromise. It has been asserted that since neither the State of Bihar was a party to the mortgage suit nor the villagers, the compromise decree passed in the mortgage suit is not binding either on the State of Bihar or upon the villagers of the two villages.

Mr. Sinha, learned Counsel for the petitioners, has placed heavy reliance under Section 44A of the Act, which states that no Company, for which any land is acquired under Part-7 of the Act, shall be entitled to transfer the land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government. He has submitted that the decree passed by the Court, based on compromise between the Company and the Bank, cannot be allowed to be used for denying right of these petitioners. Reliance has been placed by him on Supreme Court's decisions, in the cases of **State of Punjab and Others v. Amar Singh and Others (AIR 1974 SC 994)** and **State of W. B. v. Sailendra Nath Sen (AIR 1993 SC 2146)**.

Mr. Kamal Nayan Choubey, learned Senior Counsel appearing for the intervenor-respondents, has submitted that in a money suit between the Company and the Bank, a decree was passed and, therefore, there was no requirement of State Government of Bihar to have been impleaded as party. He has argued that the writ petitioners have completely failed to establish their *locus standi* to raise any grievance in respect of the lands, subject matter of auction purchase, since they have not been able to show their connection with the said lands.

Mr. Ajay Kumar Sinha, learned Counsel representing the Bank, has, while referring to the averments made in the counter affidavit filed on behalf of the Bank, submitted that the case of the petitioners has no merit and deserves to be rejected.

After having carefully examined the pleadings of the writ petitioners and in the background of discussions above, I am of the view that this writ application is completely frivolous, vexatious and appears to have been filed with ulterior purpose. It is not the petitioners' case that their lands were acquired under the provisions of the Act. They claim that the lands of their ancestors were taken for the Company through some agreement. They have not been able to show that the said lands were acquired for the purpose of Company through any agreement. The nature of dispute, which the petitioners have raised in a proceeding under Article 226 of the Constitution of India, is deplorable. The decision of the Supreme Court relied on by learned Counsel for the petitioners cannot improve their case in the background of the nature of their own pleading on record noted above.

This writ application is, accordingly, dismissed with cost of Rs. 20,000/-, to be recoverable by the District Magistrate, Siwan, equally (ten thousand each) from these petitioners, as arrears of land revenue.

Interlocutory Applications stand disposed of.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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