
- Petitioner/s

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary Cum Agricultural Production Commissioner, Department of Agricultural Government of Bihar, Patna.
4. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
5. The District Magistrate, East Champaran at Motihari.
6. The Sub -Divisional Officer, Motihari.
7. The District Land Acquisition Officer, East Champaran at Motihari.
8. The Administrator Bihar, State Marketing Board (Dissolved).
9. The Managing Director, Bihar State Warehousing Corporation, Patna.

... .. Respondent/s

For the Petitioner/s	:	Mr. Jashawir Singh Arora, Sr. Advocate Mr. Manoj Kumar, Advocate
For the Respondent/s	:	Mr. Anirban Kundu, SC-24 Mr. Nikesh Kumar, Advocate

2. The writ petition has been preferred for following



in memo no. 6096 dated 9.11.2012, issued by the Department of 137 Agricultural, Government of Bihar under the signature of Agricultural Production Commissioner, whereby the representation filed by the petitioner no.1 for executing the deed of reconveyance in favour of the petitioner by confirming release of land from Land Acquisition proceeding, in term of order dated 14.5.2010, passed in C.W.J.C. No. 14886 of 2008, was rejected.

ii. Also for commanding the respondents to execute the deed of reconveyance in regard to the 55 Dec. of land in question of the petitioners confirming release of the said land from land acquisition in favour of the petitioner in terms of order issued by the then Chairman, Bihar State Agricultural Marketing Board (now dissolved) vide letter no. 1495 dated 7.3.79 and decision taken by the department of Agriculture vide letter no. 9578 dated 23.7.86.

iii. Also for any other appropriate relief/reliefs to which the petitioners on entitled either in the eye of law or in the facts and circumstances of the case.”

3. The matter relates to a land bearing Khata No. 251
(plot No. 818, 819) having an area of 0.55 acres situated in



Village Banjaria in the District of East Champaran. The case of the petitioner is that the Deputy Director, Agricultural Marketing Board sent a requisition in the year 1973 for acquisition of land appertaining to village Banjaria having an area of 14.01 acre for the purpose of establishment of Motihari Agricultural Marketing Campus under the Bihar Land Acquisition Act (henceforth for short 'the Act'). Later, the Additional Collector, East Champaran gave direction for release of 3.42 Acres of out of total 14.01 acre that was to be acquired. Accordingly fresh notification was issued for the remaining 10.59 acres of land on 12.03.1974.

4. It is the case of the petitioner that 4.94 acres of land of the father of the petitioner was also subject matter of the acquisition proceeding but the petitioner being an unemployed Engineer made a request for release of 0.55 decimal of land for the establishment of Iron Cast Factory. In absence of any response from the respondents, Title suit No. 250 of 1978 was preferred before the Additional Munsif, Motihari with the prayer to restrain the respondent from construction of boundary wall over the said 0.55 decimal of land.

5. Later, on 23.03.1979 the Chairman of the Bihar State Agriculture Marketing Board (henceforth for short 'the



Board') vide letter No. 702 directed the Executive Engineer, Agricultural Division, Motihari that that 0.55 decimal of land can be kept out of the acquisition proceeding and construction should continue on the rest of the land.

6. In the meantime, the Title suit preferred by the petitioner was decided in his favour on 26.06.1982 restraining the respondents from impeding the construction of plaintiff's factory over the said land.

7. Learned Senior counsel submits that though the Joint Secretary of the Agricultural Department in its letter dated 23.07.1986 informed the Board to release the 0.55 decimal of land out of 10.59 acres of land, the reconveyence process was never completed and in the meantime, the Marketing Board was abolished in the year 2006.

8. As no step was taken by the respondent, aggrieved, he preferred CWJC No. 14886 of 2008. The same came to be decided on 14.05.2010 by a bench of this Court directing the petitioner to move before the Agricultural Department so that a decision is taken in the matter.

9. Thereafter, the Agricultural Production Commissioner, Agricultural Department, Bihar, Patna took up the matter and held as follows:



5. उपरोक्त सभी बिन्दुओं पर विचार कर मैं पाता

हूँ कि:-

(i) भू-अर्जन से मुक्त करने की सारी प्रक्रिया पूरी नहीं हो सकी एवं राजस्व विभाग की अनुमति प्राप्त नहीं हुई। कलान्तर में भू-खण्ड का स्वरूप एवं परिस्थिति बदल गयी। उक्त तथ्य एवं परिस्थिति के परिप्रेक्ष्य में आवेदक का उक्त भूमि को भू-अर्जन से मुक्त कर *re-conveyance deed* जारी करने का आवेदन विचारणीय नहीं है।

(ii) यह भी सही है कि बिहार राज्य भण्डार निगम के द्वारा गोदाम निर्माण का कार्य काफी आगे बढ़ा हुआ है। पटना उच्च न्यायालय के रिट संख्या 4183/2012 के आदेश के कम में प्रबंध निदेशक, बिहार राज्य भण्डार निगम ने दिनांक 09.04.2012 को जिला पदाधिकारी, पश्चिमी चम्पारण को पत्र लिखा है उसमें बताया गया है कि गोदाम निर्माण का कार्य लगभग 80 प्रतिशत पूरा हो चुका है। इस परिप्रेक्ष्य में भी *re-conveyance deed* प्रक्रिया को आगे बढ़ाकर भू-अर्जन को वापस लेना जनहित में नहीं होगा। साथ ही इस परिप्रेक्ष्य में कृषि विभाग को अपने पूर्व के भूमि अर्जन विमुक्ति आदेश को वापस



करने की कार्यवाई प्रारम्भ करना अपेक्षित है।

(iii) अब इस मामले में उचित यह होगा कि प्रशासक, बिहार राज्य विपणन पर्षद (विघटित) द्वारा विषयगत भू-अर्जन के अभिलेखों का अध्ययन कर लिया जाय और सुनिश्चित हो लें कि भू-अर्जन की कार्यवाई पूर्ण हुई थी या नहीं ? यदि पूर्ण हो गयी थी तब भूधारी को पुनः एक बार सूचना देकर कोषागार में जमा मुआवजा की राशि प्राप्त कर लेने का मौका दिया जाना चाहिए। यदि भू-अर्जन की कार्यवाई पूर्ण नहीं हुई है तब उसे पूर्ण करने हेतु कानून के अनुसार अग्रतर कार्यवाई करनी चाहिए।

(iv) सभी पक्ष विषय पर *civil court* द्वारा पारित आदेश एवं उच्च न्यायालय द्वारा पारित आदेशों का अनुपालन करें एवं सुनिश्चित करें कि न्यायादेशों का उल्लंघन कदापि न हो।

उपर्युक्त आदेश के साथ आवेदक श्री शत्रुघ्न प्रसाद साह के आवेदन को निष्पादित किया जाता है।

10. Aggrieved, the present petition.

11. Learned Senior counsel for the petitioner submits that a bare perusal of the materials on record would show that



the respondents have taken a decision to release the said 0.55 decimal of land so that the petitioner could pursue his business. In between, due to delay on the part of the respondent, Title suit was also preferred which was decreed in his favour. Ignoring all the aforesaid facts, the respondent Agricultural Production Commissioner has come to a conclusion that the process of reconveyance in the present circumstances is not possible. The order as such needs to be interfered with.

12. Learned State counsel has filed reply and took this Court to the supplementary counter-affidavit filed on behalf of the respondent Nos. 5 to 7 duly put on affidavit by District Land Acquisition Officer, East Champaran, Motihari, specifically in paragraph 5 d which reads as follows:

“5 (d). That after lapse of more than 20 year; when the nature of land in question has changed and in the public interest the godown Construction work over the land in question has substantially progressed and public money has been spent in the construction, therefore, in such circumstances after a lapse of more than 20 years, it does appropriate to proceed with the deed of re-conveyance which was started more than 2 decades not seem earlier.



13. It is his further submission that as per the letter issued by the Managing Director of the Bihar State Warehousing Corporation, Patna dated 09.04.2012, 80% of the Godown Construction work has been completed and in that background also releasing the 0.55 decimal of land is not possible. Learned State counsel submits that the letter issued is of the year 2012 wherein it has been informed that 80% work has been completed. To his knowledge, the process of construction have already stands completed.

14. Having heard the parties and on perusal of record the facts that emerges is/are:

(i) earlier, the acquisition proceeding with respect to the land of the father of the petitioner was initiated and as per the decision of the Agricultural Production Commissioner, it was taken to its logical conclusion;

(ii) subsequently, on the petition of the petitioner, the decision was taken to release the 0.55 decimal of land;

(iii) the said process was never completed and in the meantime the Marketing Board was abolished;

(iv) though a title suit was preferred in which the respondents were restrained from obstructing the petitioner from getting his factory, nothing is on record to show whether



petitioner resorted to any construction process and/or in case the respondents started construction of warehouse, the matter was taken before the concerned Court for violation of its order.

(v) the observation of the Agricultural Production Commissioner not rebutted by the petitioner is that the acquisition process was completed.

15. In that background, the direction to the respondents to release the land decades later when the construction process has already been completed, as informed by the learned State counsel cannot be done.

16. Learned Senior counsel appearing for the petitioner at this stage submits that though the respondent authorities have acted in very high handedness manner despite their being an order in his favour as also their own decision to release the land, in view of the fact that they claim that the construction process has been completed, the respondent authorities can earmark an alternative plot ad-measuring 0.55 decimal so that he/his family members can start their business afresh for their livelihood as in absence of the release of the present land, they will be in dire strait. It is his further submission that alternatively, the petitioner is ready to compensate the respondent authorities for the cost that it has incurred in the construction of the warehouse on that piece of land



(0.55 decimal), if they release the land.

17. Though there has been laxity on the part of the petitioner also, this suggestion/submission is being accepted only because for decades, the petitioner was made to believe that the land will be ultimately be released in his favour and finally ignoring the orders, a decision has been taken not to release the land.

18. In that particular facts and circumstance, the petitioner will be representing before the respondent No. 3, the Agricultural Production Commissioner, Agriculture, Agricultural Department, Bihar, Patna within a period of four weeks on the points raised in the writ petition relating to grant of alternative piece of land and/or compensation to the respondent authorities for the construction work if the aforesaid 0.55 decimal land is released.

19. If such representation is filed within four weeks from today alongwith all the relevant documents, the respondent No. 3, the Agricultural Production Commissioner, shall pass an appropriate order within three months thereafter.

20. The writ petition stands disposed of.

(Rajiv Roy, J)

Adnan/-

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