IN THE HIGH COURT OF JHARKHAND, RANCHI
W.P.(C) No. 4590 of 2014

1.(a) Krishna Kachhap
1.(b) Shankar Kachhap
1.(c) Bishnu Kachhap, All sons of late Kuda Oraon
1.(d)Biran Kachhap, wife of late Kuda Oraon
2.(a)Manoj Toppo,
2.(b)Anuj Toppo, All sons of late Mareya Oraon
All residents of Village Nagri, P.O. Bukru (Kanke), PS Kanke, District Ranchi. …… …. .... Petitioner(s)

-- Versus --

1.State of Jharkhand
2.Deputy Commissioner, Ranchi, PO and District Ranchi
3.Director, Birsa Agriculture University, Kanke, Ranchi, At+PO+ PS Kanke, District Ranchi
4.Director, Planning and Development, Birsa Agriculture University, Kanke, Ranchi At PO +PS+ Kanke, District Ranchi
5.District Land Acquisition Officer, Ranchi, PO GPO, District Ranchi
6.Registrar, National University of Study and Research in Law at Adre House, Kanke Road, PO and PS Gonda, Ranchi
….. .... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner(s) :- Mr. Laxman Kumar, Advocate
For Resp.Nos.1,2 &5 :- Mr. Manoj Kumar, Advocate
[The State of Jharkhand]
Resp.Nos.3 and 4 :- Mr. A. Allam, Senior Advocate
[Birsa Agricultural University]
Resp.Nos.6 :- Mr. Sudarshan Srivastava, Advocate
[National University of Study and Research in Law]
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*13**/02.09.2026*** Heard Mr. Laxman Kumar, the learned counsel appearing on behalf of the petitioners, Mr. Manoj Kumar, the learned counsel appearing on behalf of the respondent State, Mr. A. Allam, learned Senior counsel appearing on behalf of respondent-Birsa Agricultural

University and Mr. Sudarshan Srivastava, the learned counsel appearing on behalf of the respondent- National University of Study and Research in Law.

2. This petition has been filed under Article 226 of the constitution of India for direction upon the respondent to release the lands from acquisition measuring an area of 2.98 acres comprised within plot nos. 2055, 2124, 2068, 2281 and 2882 of Khata No. 227, 130, 294, 324 situated at Village-Nagri, P.O.-Bukru (Kanke), P.S.-Kanke, District-Ranchi which was the subject matter of Land Acquisition Case No.21 of 1957-58.

3. Mr. Laxman Kumar, the learned counsel appearing on behalf of the petitioners submits that the land measuring an area of 2.98 acres comprised within plot nos. 2055, 2124, 2068, 2281 and 2882 of Khata No. 227, 130, 294, 324 situated at Village-Nagri, P.O.-Bukru (Kanke), P.S.-Kanke, District-Ranchi was held owned and possessed by the ancestors of the petitioners which find place in the R.S. Record of Right. He next submits that the predecessors in interest of the petitioners remained in possession over the lands so long alive and the petitioners being the legal heirs and successors continuing in possession thereof and rent receipts are being issued by the revenue authorities with respect to the aforementioned lands acknowledging the possession of petitioners over aforementioned lands. He next submits that land Acquisition Case No. 21 of 1957-58 was initiated for acquisition of the land measuring on area of

202.07 acres of the said village for Birsa Agriculture College, Kanke, Ranchi and Notification No. 394 under section 4(1) read with 17(4) of the Land Acquisition Act, 1894 was issued by the Govt. of Bihar. He next submits that pursuant to that, on 19.12.1968 order was passed by the Land Acquisition Officer, Ranchi directing the Requisitioning Authorities to find out another site. He also submits that by the order dated 13.06.1969 passed by the Land Acquisition Officer, Ranchi it is evident that certified land acquisition plan of the land was prepared and a report was called for form the Kanoongo and reminder was also given. He also submits that the Commissioner, Chhotanagpur Division, vide his Letter No. 407 dated 31.01.1970 made recommendation for release of the aforementioned lands.

4. In the aforesaid background, he submits that the land in question has not been utilized and it was required to be returned to the raiyats, however, it has not been taken place, however, the recommendation of the Divisional Commissioner is there and he next submits that even the compensation has not been paid to the predecessors of the petitioners and Birsa Agriculture University, Kanke, Ranchi has not utilized the lands and in that view of the matter, the land is required to be returned to the petitioners, as such, proper direction may kindly be issued.

5. Mr. Manoj Kumar, the learned counsel appearing on behalf of the respondent State submits that the present writ petition

itself is suffering from gross delay and laches as the petitioners are asking for direction upon the respondents to release the land with respect to the Land Acquisition Case No.21 of 1957-58 whereas the writ petition has been filed in the year 2014, that is, after lapse of about 66 years. He also submits that the petitioners herein have not annexed any chit of paper to substantiate their claim that they are the successors of the awardees of L.A. case No.21 /1957-58 and he submits that these are the disputed question of facts and that cannot be the subject matter under Article 226 of the Constitution of India. He also submits that the lands having an area of 202.27 acres belonging to various persons were acquired by the state government vide L.A. Case No.21/57-58 for Birsa Agriculture College situated at Village Nagri, Kanke, District Ranchi after complying the provisions of Land Acquisition Act, 1894, the Award was prepared. He next submits that although the Divisional Commissioner has requested to return the land, however, that was not acted upon by the Government and that letter, cannot be a ground to release the said land which has already been acquired. He next submits that the forefathers of the petitioners have received the compensation amount after the Award was prepared in their names and thereafter the valuation khatiyan was also prepared which is available in the records as contained in Annexure-A annexed to the counter affidavit filed by the respondent State. He also submits that the matter was verified by the concerned Circle Officer and the Circle Officer has

submitted its report vide letter dated 16.04.2022 stating that the land has been acquired as contained in Annexure-B series. He also submits that some of the co-sharers of the present petitioners had preferred W.P.(C) No.2356/2009 for the lands in question and which has been disposed of by the Division Bench in light of the observation made therein and liberty was provided to the State to use all the measures to take possession. In this background, he submits that after a lapse of 66 years, the present writ petition has been filed and the disputed question of facts are involved and in view of that, the writ petition is fit to be dismissed. He submits that Section 48 of the Land Acquisition Act, 1894 has been considered by the Hon'ble supreme Court in the case of ***Govt. Of A.P. & Anr vs Syed Akbar*** reported in ***2005 (1) SCC 558*** wherein at paragraph nos.10 and 11, it has been held as under:

> *"**10**. It is neither debated nor disputed as regards the valid acquisition of the land in question under the provisions of the Land Acquisition Act and the possession of the land had been taken. By virtue of Section 16 of the Land Acquisition Act, the acquired land has vested absolutely in the Government free from all encumbrances. Under Section 48 of the Land Acquisition Act, Government could withdraw from the acquisition of any land of which possession has not been taken. In the instant case, even under Section 48, the Government could not withdraw from acquisition or to re-convey the said land to the respondent as the possession of the land had already been taken. The position of law is well settled. In State of Kerala and Ors. Vs. M. Bhaskaran Pillai & Anr. [(1997) 5 SCC 432], para 4 of the said judgment reads:-*

"4. In view of the admitted position that the land in question was acquired under the Land Acquisition Act, 1894 by operation of Section 16 of the Land Acquisition Act, it stood vested in the State free from all encumbrances. The question emerges whether the Government can assign the land to the erstwhile owners? It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is not other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the mount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution. In the present case, what we find is that the executive order is not in consonance with the provision of the Act and is, therefore, invalid. Under these circumstances, the Division Bench is well justified in declaring the executive order as invalid. Whatever assignment is made, should be for a public purpose. Otherwise, the land of the Government should be sold only through the public auctions so that the public also gets benefited by getting a higher value."

***11**. In that case, an extent of 1.94 acres of land was acquired in 1952 for construction of National Highway and the construction was completed in 1955 in 80 cents of land and the balance of land remained unused. The remaining land was sought to be sold to the land owner at the same rate at which the compensation was awarded under Section 11. This again was challenged in the writ petitions. The Government tried to sustain the action on the basis of the executive order issued by the Government for permission for alienation of the land. On these facts, the position of law was made clear in para 4 extracted above. Thus, it is clear that under Section 16 of the Land Acquisition Act, the acquired land should vest in the State free from all encumbrances and that any executive order*

inconsistent with the provisions of Land Acquisition Act was invalid. Further that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In our view, this decision supports the case of the appellants fully."

6. Mr. Manoj Kumar, learned counsel further submits that if the land is acquired and that has not been used for particular purpose, that can be utilized for another purpose and that has been held in the aforesaid judgment. He also submits that further the Constitution Bench of the Hon'ble Supreme Court in the case of ***Indore development authority v. Manoharlal and Others*** reported in ***(2020) 8 SCC 129*** has clarified all the aspect in that judgment, and he refers to paragraph no.366.7 of the said judgment which is as under:

"366.7. The mode of taking possession under the 1894 act and as contemplated under section 24(2) is by drawing of inquest report/ memorandum. Once the award has been passed on taking possession under Section 16 of the 1894 Act, the land vests in State there is no divesting provided under Section 24(2) of the 2013 Act, as once possession has been taken there is no lapse under Section 24(2)."

7. Mr. Kumar, learned counsel submits, in view of above paragraph of the Full Bench judgment of Hon'ble Supreme Court, the land cannot be released and the part of the land has already been handed over to National University of Study and Research in Law/respondent no.5 and part thereof has been utilized for construction of Ring Road in the city of Ranchi.

8. Mr. A. Allam, the learned Senior counsel appearing on behalf of the respondent/ Birsa Agriculture University submits that on enquiry by the University it has been transpired that the said land has been utilized for construction of Ring road in the city of Ranchi and part of the land in question has been utilized by National University of Study and Research in Law. He next submits that Birsa Agriculture University has already issued No Objection Certificate regarding the said land to be utilized for another purpose. He also submits that the Circle Officer, Kanke, Ranchi also wrote a letter dated 02.08.2011 to the Registrar, National University of Study and Research in Law, Ranchi that the lands described in a separate chart in different plot numbers about which the petitioners have mentioned in the writ petition, those lands are being handed over to the National University of Study and Research in Law, Ranchi as contained in Annexure-D of the counter affidavit filed by the respondent Birsa Agriculture University. He submits that after lapse of 66 years, the present writ petition has been filed although the land was acquired for the purpose of Birsa Agriculture University, however, now it has been handed over to the National University for Study and Research in Law and part of the land has been utilized for construction of Ring Road.

9. Mr. Sudarshan Srivastava, learned counsel appearing on behalf of the respondent no.6/ National University of Study and Research in Law submits that part of the land in question has been

utilized for construction of National University of Study and Research in Law and the said plots were also a part of the P.I.L before the Division Bench and in the said P.I.L certain orders have been passed. He also submits that even there is no averment as to how these petitioners are said to be descendants of the original awardees and he also submits that not a single averment has been made in this regard and even the genealogy is not disclosed in the writ petition. He also draws the attention of the Court to page 23 of the writ petition, which is the order of the learned Acquisition Officer dated 09.12.1968 and submits in view of that from the said order it transpires that certain awardees have taken the awarded amount and certain have refused to take the awarded amount and also to provide the land and in this background, he submits that the writ petition is fit to be dismissed as there is delay and there is no admitted facts in the present writ petition and it is not disclosed in the writ petition as to how these petitioners are the legal heirs/ successors of the original awardees. At this stage, he also submits that the writ petition may kindly be dismissed. Mr. Sudarshan Srivastava, the learned counsel further submits that so far as W.P.(C) No.2356/2009 is concerned, that order was further modified by the Division Bench by order dated 26.04.2011 and observed that 50% interest has to be paid and it is admissible under section 34 of the Land Acquisition Act, 1894 and the interest has to be paid for the land admissible under section 34 of the Act. He also submits in

view of the said modification, it is also fortified that the land has already been acquired and the persons who have filed proper petition before the Division Bench, liberty was provided even to take further interest.

10. In view of above submissions of the learned counsels appearing on behalf of the parties and after going through the records, it transpires that plot nos. 2055, 2124, 2068, 2281 and 2882 of Khata No. 227, 130, 294, 324 situated at Village-Nagri, P.O.-Bukru (Kanke), P.S.-Kanke, District-Ranchi have been acquired under the Land Acquisition Case No.21/ 1957-58 and this aspect of the matter has not been denied in the writ petition and the petitioners have also admitted that the proceeding has been initiated. Further, in the counter affidavit filed by the respondent State, the documents are annexed as noted in the argument of Mr. Manoj Kumar, the learned counsel appearing on behalf of the respondent State which clearly suggest that the land has been acquired and that has been further clarified by the Circle Officer that the land has been acquired which is contained in Annexure-B series. It has been stated in the counter affidavit filed by the respondent State that the request of the learned Commissioner was not adhered to and was not acted upon and it has come in the counter affidavit of the respondent Birsa Agriculture University that the said land was acquired for the purpose of Birsa Agriculture University, however, that was not utilized by Birsa Agriculture University and Birsa Agriculture

University has issued No Objection Certificate (NOC) and thereafter the part of the land has been handed over to the National University of Study and Research in Law (NUSRL) and part has been utilized for construction of Ring Road. The Award has been passed in the year 1957 whereas the writ petition has been filed in the year 2014. Section 17(4) has been considered by the Hon'ble Supreme court in the case of ***Satendra Prasad Jain and others v. State of U.P. and others***, reported in ***(1993) 4 SCC 369***, wherein, at paragraphs 14 and 15, it has been held as under:

> ***"14.*** *There are two judgments of this Court which we must note. In Rajasthan Housing Board v. Shri Kishan [(1993) 2 SCC 84] it was held that Government could not withdraw from acquisition under Section 48 once it had taken possession of the land. In Lt. Governor of H.P. v. Avinash Sharma [(1970) 2 SCC 149 : (1971) 1 SCR 413] it was held that : (SCC p. 152, para 8)*
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> > *"... after possession has been taken pursuant to a notification under Section 17(1) the land is vested in the Government, and the notification cannot be cancelled under Section 21 of the General Clauses Act, nor can the notification be withdrawn in exercise of the powers under Section 48 of the Land Acquisition Act. Any other view would enable the State Government to circumvent the specific provision by relying upon a general power. When possession of the land is taken under Section 17(1), the land vests in the Government. There is no provision by which land statutorily vested in the Government reverts to the original owner by mere cancellation of the notification."*
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> ***15.*** *Ordinarily, the Government can take possession of the land proposed to be acquired only after an award of compensation in respect thereof has been made under Section 11. Upon the taking*

of possession the land vests in the Government, that is to say, the owner of the land loses to the Government the title to it. This is what Section 16 states. The provisions of Section 11-A are intended to benefit the landowner and ensure that the award is made within a period of two years from the date of the Section 6 declaration. In the ordinary case, therefore, when Government fails to make an award within two years of the declaration under Section 6, the land has still not vested in the Government and its title remains with the owner, the acquisition proceedings are still pending and, by virtue of the provisions of Section 11-A, lapse. When Section 17(1) is applied by reason of urgency, Government takes possession of the land prior to the making of the award under Section 11 and thereupon the owner is divested of the title to the land which is vested in the Government. Section 17(1) states so in unmistakable terms. Clearly, Section 11-A can have no application to cases of acquisitions under Section 17 because the lands have already vested in the Government and there is no provision in the said Act by which land statutorily vested in the Government can revert to the owner."

11. However, the land in question was not acquired under section 17(4) of the Land Acquisition Act, 1894 which was acquired after following due process under section 4 and 5(A) of the Land Acquisition Act, 1894 and the Award was passed and compensation has already been paid as the same has been disclosed in the counter affidavit of the respondent State and it is also fortified in light of the order dated 19.12.1968 and that is the part of the writ petition itself.

12. Admittedly, the compensation has been paid and in light of paragraph nos.366.3 and 366.9 of the judgment of Hon'ble Supreme Court in the case of ***Indore development authority v.***

Manoharlal and Others (supra), there is no illegality as the compensation has already been paid and further in light of Section 366.7 of the said judgment, once the land is acquired, the same cannot be returned.

13. It has been held by the Hon'ble Supreme Court in the case of ***State of Kerala and others v. M. Bhaskaran Pillai and another***, reported in ***(1997) 5 SCC 432*** that it is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case, where there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilized for the public purpose envisaged in the Directive Principles of the Constitution.

14. In view of the above reasons and analysis, the petitioners herein have failed to satisfy the Court that they are the legal heirs/ successors of the original awardees. In the writ petition, it has not been disclosed as to how they are the legal heirs/ successors (descendants) of the original awardees and even the genealogy has not been stated in the annexures as annexed. The law is well-settled that once the land is acquired, that can be utilized for the public purpose. The land has been acquired in the year 1957-58 for the use by Birsa Agriculture University, however, it was

not utilized by Birsa Agriculture University and the Government has chosen to provide the part of the land to the National University of Study and Research in Law (NUSRL), Ranchi and part of the said land has been utilized for construction of the Ring Road in the city of Ranchi and further the land in question was the subject matter before the Division Bench and in the two of the orders, as noted in the argument of Mr. Manoj Kumar, the learned counsel appearing on behalf of the respondent State and Mr. Sudarshan Srivastava, the learned counsel appearing on behalf of the respondent National University of Study and Research in Law, further fortify that the land has been acquired in accordance with law.

15. In view of above facts, reasons and analysis, the Court finds that no case of interference is made out in the present writ petition, and accordingly, this writ petition being W.P.(C) No.4590 of 2014 is, hereby, dismissed.

16. Pending petition, if any, also stands disposed of, accordingly.

(Sanjay Kumar Dwivedi, J.)

Dated : *02.09.2026*
SI/, A.F.R.
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