

(2012) 05 JH CK 0010

Jharkhand High Court

Case No: Writ Petition (PIL) No. 2347 of 2012

Bar Association, Jharkhand High
Court, Doranda, Ranchi

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: May 16, 2012

Acts Referred:

- Land Acquisition Act, 1894 - Section 16, 17(1), 17(4), 34, 4

Citation: (2012) 4 JCR 305 : (2013) 1 JLR 158

Hon'ble Judges: Prakash Tatia, J; Aparesh Kumar Singh, J

Bench: Division Bench

Advocate: Mithilesh Singh, for the Appellant; Anil Kumar Sinha, Advocate General, Rajiv Kumar, Advocate, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

I.A. No. 1558 of 2012

1. Heard learned counsel for the applicants, who have moved I. A. No. 1558 of 2012 and learned counsel for the petitioner as well as learned Advocate General for the respondents- State. Learned counsel for the applicants submitted that it is true that the big chunk of land was acquired under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) by invoking power u/s 17(4) of the Act. However, the compensation amount was not paid to the raiyats, but it was deposited, in the Treasury of the State Government. It is submitted that the applicants are in possession of the land in question and because of non-payment and non-receiving of the compensation amount the applicants are claiming their rights over the land under acquisition. It is also submitted that the applicants were cultivating the land and their names are still in the Jamabandi. It is also submitted that the applicants are paying the rent to the State Government

2. Learned counsel for the applicants relied upon the judgment of the Hon'ble Supreme Court delivered in the case of [Darshan Lal Nagpal \(dead\) by L.Rs. Vs. Government of NCT of Delhi and Others](#), wherein Hon'ble Supreme Court held that urgency power of acquiring the land u/s 17(4) can be invoked when in fact there is urgency for acquiring the land by dispensing with enquiry u/s 5-A of the Land Acquisition Act, 1894.

3. Learned counsel for the State submitted that land was acquired as back as in the year 1957 and it vested in government in the year 1958. This acquisition was never challenged by the original recorded Raiyats. Now when land in question has been allotted and possession has been given to three prestigious Institutions like Law University, Ranchi, Indian Institute of Management, Ranchi and Birsa Agriculture University, then at the instance of political leaders dispute is created by misguiding poor people. A few of the similar persons claiming some right approached this Court as back as in the year 2009 by preferring writ petition being W.P. (C) No. 2356 of 2009, wherein Division Bench of this Court (one of us Prakash Tatia, J was a party) passed an order on 26th April, 2011 as the petitioners of that writ petition agreed to accept statutory admissible interest and on that basis order was passed that those petitioners will hand over the possession of the land, which is under acquisition. This order dated 26th April, 2011 was clarified by another order dated 29th April, 2011 and it was ordered that 15% interest in terms of Section 34 of the Land Acquisition Act will be paid to the writ petitioners.

4. Learned counsel for the State further submitted that these aggrieved applicants, who have preferred this LA. No. 1558 of 2012 may not even born at the time of acquisition of the land and their ancestors never objected to the acquisition of land and now after more than 60 years raising frivolous objection by filing the instant LA. It is submitted that the dispute has been raised only at the instance of the particular leader and is not bonafide, which is apparent from the fact that since last more than 60 years, no body objected to the acquisition of land, made in the year 1957-58. It is also submitted that the objection was raised only when the State decided to go for a big project of construction building for the running "National University of Study and Research in Law", Indian Institute of Management, Ranchi and Birsa Agriculture University.

5. Therefore, it is submitted that in view of the above reasons as well as in view of the reasons that the applicants, who have even no knowledge about the facts of acquisition, have preferred this I.A. on the basis of assumption and presumption and may have been misguided to approach this Court at the belated stage.

6. Learned Advocate General also submitted that the order dated 26th April, 2011 and 29th April, 2011 passed in W.P. (C) No. 2356 of 2009 the applicants of that case may get the compensation of huge amount if they have not received the amount, their amount are already lying in the treasury. Because of passing of time since 1956-57 they will get interest @ 15% and in that situation even when such interest

rate was not prevailing at that time. If compensation is not accepted by the owner of the land, then it is deposited in the Court and then from that date of deposit there is no liability of the State Government of paying interest but in larger interest of the persons the State did not object to such a relief to the persons who may be poor persons.

7. We considered the submission of the learned counsel for the parties.

8. It is worthwhile to mention here that the land was admittedly acquired in the year 1957-58 by following the procedure as required under the Land Acquisition Act. The compensation amount which was not taken by some of persons has been deposited in the treasury of the State Government. It is also settled law that Section 16 of the Land Acquisition Act, 1894, clearly provides that if the land is acquired under the provisions of the Act, 1894 then from the date of acquisition the land vests absolutely in the Government free from all encumbrance. Therefore, the acquisition of land which was completed in the year 1957-58 more than 60 years ago is being sought to be challenged on the ground that at the time of acquisition of land and taking over the possession under the provisions of Section 17(4) of the Act of 1894 there was no urgency. Such issue cannot be raised by the persons, who themselves have no knowledge of the facts of the case and the persons whose ancestors never challenged the acquisition of property at any point of time. Therefore, the land vested in the Government absolutely irrespective of fact that whether any corresponding entries were made in the revenue record or not? Any entry in the revenue record is only prima facie proof of the title and not conclusive proof of title. Admittedly entries in the revenue record are wrong, which is proved by the admitted fact of acquisition of land in the year 1957-58. Acquisition of land extinguished the title of erstwhile owner of the land and it vested in the government and any entry in revenue record cannot be recognized. Therefore, it appears that the entries in the Jamabandi may have continued because of not making correction in the entries in pursuance of the acquisition proceedings but these entries are not proof of title. It is not the case of these applicants that land was not acquired and title continued to vest in them. Their case is only to the effect that they are continuing in possession of the land. At this juncture it is relevant to mention here that whenever a big piece of land was acquired by the Government then in that situation it is neither possible nor feasible nor it is desirable for the State Government to take possession of the entire big piece of land by constructing boundary wall by spending the public money without there being any necessity. The present applicants are also claiming that they are cultivating the land. Even if they are cultivating the land who are few in number then admittedly this chunk of land is not irrigated land and can be cultivated only in the rainy season. This cultivation is not objected by the lower officers of Revenue Department then that itself cannot be treated as hostile title of the applicants. In view of the above reasons, so far as the title of the land is concerned, admittedly it is not vested in the applicants. So far possession is concerned, it is claimed over a small piece of land but without claim adverse

possession over the land in dispute.

9. It is worthwhile to mention here that according to the learned counsel for the applicants the total land acquired was 227 acres and these applicants, who are claiming possession and as per the documents placed on record, the applicants are claiming possession over a very small piece of land out of 227 acres of land. It is also not in dispute that after acquisition of land, on 23rd November, 2011, 63.76 acres of land was entered in the name of "National University of Study and Research of Law" and relevant entries were also made in the revenue record entering the name of the said University. These entries have not been challenged by preferring any appeal. From the documents placed on record it is also not proved that these documents relate to the land which has been allotted to the University.

10. In the judgment of the Hon"ble Supreme Court delivered in the case of [Darshan Lal Nagpal \(dead\) by L.Rs. Vs. Government of NCT of Delhi and Others](#), wherein Hon"ble Supreme Court held that invocation of power under Sections 17(1) and (4) and dispensing with inquiry u/s 5-A under the Land Acquisition Act, 1894, the urgency provisions can be invoked only if even small delay of few weeks or months may frustrate the public purpose for which land is sought to be acquired and not otherwise. Herein, in this case invocation of power u/s 17(4) of the Land Acquisition Act was never objected by any of the persons for last 60 years, who had any interest in the land in question. The applicants, after more than 60 years raised this point, who themselves have no knowledge of the facts.

11. In the judgment of the Hon"ble Supreme Court delivered in the case of Delhi Administration & Others-Vs.- Kaushilya Thakur and another reported in Judgment Today 2012(4) SC 84, Hon"ble Supreme Court rejected the challenge to land acquisition of the applicant on the ground of delay of more than three years. However, it would be relevant to mention here that we are dealing with the I.A. filed in this Public Interest Litigation and it is not a writ petition to challenge acquisition proceedings. It is relevant, that, some of persons already approached this Court as far back as in the year 2009 and obtained the order in the year 2011. Therefore, no more relief can be granted to the applicant than the relief, which has already been granted by a Division Bench of this Court in W.P. (C) 2356 of 2009 vide order dated 26th April, 2011 and 29th April, 2011. In view of the above reasons, we do not find any merit in I.A. No. 1558 of 2012. Hence, it is dismissed.

12. Learned Advocate General submitted that the construction work of the boundary wall is likely to be completed by 15th June, 2010. We again direct the State Government to see that no damage is caused to the property of "National University of Study and Research in Law" in the city of Ranchi and its activities as well as the other Institutions which may coming up in near future. The State should deal with the scrupulous elements effectively to have the progress of the State of Jharkhand for which State of Jharkhand was carved out from the State of Bihar. The establishment of these institutions will also substantially help the public of the State

of Jharkhand.

13. Learned counsel for the petitioner submitted that so far land of University is concerned, most of the land is not cultivable land and it was not under the cultivation and further the documents placed on record by the applicants cannot be said to have any relation with the land in question which is handed over to the University. Be that as it may, in fact out of the acquisition land if any body has cultivated for a short period here and there that will make no difference and will not create any right to the person.

14. It is made clear that State Government will take care in making the payment of the compensation and for that purpose they will examine the claim of any claimant and his identity. This order is being passed because of the reason that it is the matter of acquisition of land took place in the year 1956-57 and obviously most of the claimants may have received the compensation amount and if not received then there may be so many claimants on behalf of one person. To know the progress in the construction of the building of the University, put up the matter on 9th July, 2012.