Lal Brajeshwar Nath Shahdeo, Santosh Mahto and Nepal Baitha Vs State of Bihar (Now Jharkhand) and Others

Court: Jharkhand High Court

Date of Decision: Aug. 14, 2006

Acts Referred: Land Acquisition Act, 1894 â€" Section 16

Citation: (2006) 4 JCR 428

Hon'ble Judges: R.K. Merathia, J

Bench: Single Bench

Advocate: A.K. Das, for the Appellant; H.K. Mehta, G.A. in CWJC Nos. 61 and 1389 of 1998 (R) and Rita Kumari, JC to SC I in CWJC No. 85 of 1998 (R) for Respondent Nos. 1 to 4 and R. Mukhopadhyay, for the Respondent

Final Decision: Dismissed

Judgement

R.K. Merathia, J.
All the three writ petitions were heard together as they involved common question of facts and law. The parties agreed

to consider one or other affidavit filed in one or other case for disposal of these writ petitions.

2. The petitioners have prayed for a direction upon the respondents to take a decision for release of unutilised lands (surplus lands) mentioned in

the letter dated 13.7.1993 written by the Additional Collector. Ranchi to the District Land Acquisition Officer, Ranchi in terms of the policy

decision of the State of Bihar and for other reliefs.

3. According to the petitioners, though the lands were acquired in 1960 but the lands in question have not been used by the Heavy Engineering

Corporation (H.E.C. for short). Therefore, it is submitted that the lands may be returned to them in view of the policy of the State of Bihar

contained in letter dated 12.1.1979 (Annexure 6). The petitioners further rely on some letters of the Deputy Commissioner and the District Land

Acquisition Officer, Ranchi to show that H.E.C. has surplus lands.

4. The H.E.C. has disputed the correctness and validity of the said letters. H.E.C. has further said that the vacant lands are being used for allied

purposes for generating funds towards working capital as per the package approved by the Board of Industrial and Financial Reconstruction.

Learned Counsel appearing for H.E.C. submitted that H.E.C. is one of the nation"s pride and is mother of industries; and every body should wish

and try that it revives and runs.

5. Mr. H.K. Mehta, learned Government Advocate appearing for the State of Jharkhand submitted that the policy of the State of Bihar has got no

statutory force and thus such policy and the letters of District Officers will not give right to the petitioners to get back the land. He further submitted

that the acquisition proceedings were complete way back in the year 1959-1960 and the petitioners have not said that compensation was not paid

to them or possession of the lands was not taken. He, therefore, submitted that the lands in question cannot be returned to the petitioners, even if

H.E.C. is not using them. He further submitted that the State Government is also considering as to how the surplus lands, if any, can be used. He

submitted that when certain policy of the State Government was relied for restoration of land; it was held by Supreme Court in the case of Govt. of

A.P. and Another Vs. Syed Akbar, . that any executive order, inconsistent with the provisions of the Land Acquisition Act is invalid. He relied on

paragraph 14 of the said judgment which reads as follows:

From the position of law made clear in the aforementioned decisions, it follows that (1) u/s 16 of the Land Acquisition Act (for short ""the Act"") the

land acquired vests in the Government absolutely free from all encumbrances; (2) the land acquired for a public purpose could be utilised for any

other public purpose; and (3) the acquired land which is vested in the Government free from all encumbrances cannot be reassigned or reconveyed

to the original owner merely on the basis of an executive order.

6. In my opinion, no relief can be granted to the petitioners. They could not show under what provision of law, the purported circular/policy

decision of the Government of Bihar, was issued. They also could not show how they derive right of restoration of land on the basis of the letters of

the District Officers, especially when they are denied and disputed by H.E.C. Such circular/policy/letters relied by the petitioners are clearly

inconsistent with the provisions of the Land Acquisition Act. Moreover, the petitioners could not prove that H.E.C. has got surplus land. Even if

some lands have not been used, it cannot be said that they are surplus. In my opinion, this case is fully covered by the judgment of Government of

A.P. (supra).

7. Accordingly, these writ petitions are dismissed. However, no costs.