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(2007) 02 SC CK 0058

Supreme Court of India

Case No: Civil Appeal No. 911 of 2007 (Arising out of SLP (C) No. 4982 of 2005)

Ram Prasad Rai @ Ram Prasad Singh and Others		APPELLANT
	Vs	
State of Bihar and Others		RESPONDENT

Date of Decision: Feb. 23, 2007

Citation: (2007) 3 AWC 2876 Supp : (2007) 3 SCALE 529 : (2007) 12 SCC 144 : (2007) 3 SCR 40

Hon'ble Judges: Dalveer Bhandari, J; Arijit Pasayat, J

Bench: Division Bench

Advocate: S. Chandra Shekhar and Amit Pawan, for the Appellant; P.S. Mishra Upendra Mishra, Tathagat H. Vardhan, Dhruv Kumar Jha, Ravi C. Prakash, Manu ShanKar Mishra, B.B. Singh, Gopal Singh and Nishakant Pandey, for the Respondent

Final Decision: Disposed Of

Judgement

Arijit Pasayat, J.
Leave granted.

2. Challenge in this appeal is to the order passed by a Division Bench of the Patna High Court in a Writ Petition filed by respondent No.6-Vijay Kumar Singh.

3. Background facts in a nutshell are as follows:

A Writ Petition was filed by the appellants questioning the legality of the proceeding initiated under the Land Acquisition Act, 1894 (in short the "Act") in which their lands were sought to be acquired. In the said Writ Petition, father of respondent No.6 Bam Bahadur Singh was respondent No.6. According to the appellants aforesaid Bam Bahadur Singh had entered appearance in the said writ petition. One Fudena Rai filed a writ petition which is numbered as CWJC No. 2862 of 2004. In the said writ petition a prayer inter-alia

was made to the effect that the respondents therein should be commanded by a writ of mandamus or any other appropriate writ or writs, order or orders to construct the road for which the land has been acquired. In the said writ petition the present appellants were not parties. However, the same was being heard almost on the same day when the writ petition filed by the appellants i.e. W.P. 3232/2004 was being heard.

4. The writ petition to which the present appeal relates is numbered as CWJC No. 8674 of 2004 and was styled as "Public Interest Litigation". It is the appellants" case that the petition was nothing but a mischievously designed attempt to harass the appellants. The writ petition was also a verbatim copy of the writ petition filed by Fudena Rai i.e. W.P. No.2862 of 2004.

5. While the appellants" writ petition and Fudena Rai"s writ petition were pending, by the impugned order the same has been disposed of, a day after it was filed. The order is a short one and reads as follows:

The grievance of the petitioner is that the land has been acquired but no steps are being taken for construction of the road.

In our view, the petitioner should approach the District Magistrate, Vaishali at Hajippur who will look into the matter and see that if the fund is available under any agency or the Gram Panchayat is ready to construct out of its own fund, then he will issue necessary direction in this regard. If there is any encroachment on the land, the District Magistrate, Vaishali at Hajipur will also take steps for removal of the same.

With the aforesaid observation, the writ application stands disposed of.

According to the appellants there is virtually a direction for construction of a road on the land the acquisition of which is under challenge. It is submitted that subsequently CWJC No.2862 of 2004 was referred to the Division Bench and was dismissed.

6. In response, learned Counsel for the State of Bihar and respondent No.6 submitted that the impugned order passed by the Division Bench is rather innocuous and in no way affects the appellants. Though the order appears to be innocuous, there are certain aspects which need to be highlighted. Obviously, the direction was for construction by the District Magistrate, Vaishali, Hajippur or the Gram Panchayat. There was no indication that the same was to be governed by the decision in the writ petition challenging the acquisition proceedings. If the High Court would have mentioned that these directions were to be carried out after the disposal of the writ petition challenging the acquisition proceedings there would not have been any difficulty.

7. In the aforesaid background, we feel it would be appropriate to direct the High Court to dispose of the pending writ petition CWJC No. 3232 of 2004. The direction in the impugned order for construction would be operative after the disposal of the aforesaid writ petition depending upon the decision in the said writ petition. The appeal is accordingly

disposed of. No costs.