

Mohammad Ali and anr Vs. State of Bihar and ors

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Court : Patna

Decided On : Aug-23-2013

Appellant : Mohammad Ali and anr

Respondent : State of Bihar and ors

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Civil Writ Jurisdiction Case
No.5096 of 1992

===== 1.
Mohammad Ali son of Sk. Farhad Hussain, resident of village- Sri Nagar, P.S.
Siwan Muffasil, District- Siwan.

2. Madarsa Makhdumia through Mohammad Alia, its Mutawalli, village- Sri Nagar,
P.S. Siwan Muffasil, District- Siwan. Petitioner/s Versus 1. State Of Bihar 2.
District Land Acquisition Officer, Siwan.

3. Additional Collector, Siwan, District Siwan 4. Daroga Prasad Roy College,
Siwan, P.S. and District Siwan through Sri Awadh Bihari Choudhary Secretary,
Dargoga Prasad Roy College, Siwan. Respondent/s

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Appearance : For the Petitioner/s : Mr. Shashi Shekhar Dwivedi, Sr. Adv., with Mr.
Ranjan Kumar Dubey, Mrs. Sangeeta Sharma For the Respondent No.1 to 3: Mr.
H.S.Roy, AC to AAG-IX For the Respondent no.4 : None.

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JUDGMENT

Date:

23. 08-2013 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the respondent no. 1 to 3. However, none is appearing on behalf of the respondent no.4. The petitioners have filed the present writ petition under Articles 226 and 227 of the Constitution of the India assailing the validity and correctness of order dated 30.10.1991 (Annexure-1) passed in Land Acquisition Case No. 5 of 1982-83 by the respondent Additional Collector, Siwan in purported exercise of his powers under Section 5A of the Land Acquisition Act, 1894 (in short the Act), whereby objection filed on behalf of the petitioners has been rejected and report has been submitted for acquisition of the lands under dispute. The petitioners have also prayed for quashing of the entire proceeding of the aforesaid lands Acquisition Case No. 5 of 1982-83. Patna High Court CWJC No.5096 of 1992 dt.23-08-2013 2/3 The present writ petition was filed as far back as on 09.06.1992 and since then 21 years have elapsed. By an order dated 03.07.1992 passed by a Division Bench of this Court, order of status quo was passed. The aforesaid interim order was reiterated by an order dated 31.07.1992, which is still in operation. Learned senior counsel appearing on behalf of the petitioners while assailing the impugned order dated 30.10.1991 (Annexure-1), submitted that after the aforesaid order rejecting the objection filed on behalf of the petitioners, there is no progress at all in the land acquisition case and the matter is still pending in view of order of status quo passed by this Court. He submits that no further action in terms of Sections 9 or 10 or 11 of the Act has been taken by the State authorities. It is being categorically stated by the learned senior counsel for the petitioners that Award has not been prepared in the aforesaid land acquisition case. Though a counter affidavit has been filed on behalf of the official respondents and show cause has been filed on behalf of the respondent no.4, but it has not been stated by any of the respondents that any further progress was made in the aforesaid land acquisition case. Admittedly, the aforesaid land acquisition case was started as far back as in the year 1982 and since then more than 30 years have elapsed. Section 11A of the Act prescribes that if the Award is

not prepared under Section 11 of the Act by the Collector within a period of two years from the date of publication of the declaration, then the entire proceeding for the acquisition of the land shall lapse. The legislative intent is very explicit that the land acquisition proceeding should be concluded within a reasonable period of time, otherwise whole proceeding shall lapse. It is admitted case of the parties that the Patna High Court CWJC No.5096 of 1992 dt.23-08-2013 3/3 award has not been prepared in terms of Section 11 of the Act. In the aforesaid facts and circumstances, particularly in view of passage of more than 30 years, this Court is of the considered opinion that no useful purpose shall be served by allowing the Land Acquisition Case No. 5 of 1982-83 to continue for the purpose of acquisition of the lands of the petitioners. In that view of the matter, entire proceeding of Land Acquisition Case No. 5 of 1982-83 including the impugned order dated 30.10.1991 (Annexure-1) passed by the Additional Collector, Siwan, is hereby set aside and quashed. However, if the acquisition of the land is at all required for the public purpose, the respondent State and its functionaries shall be at liberty to start a fresh proceeding under the provisions of the Act for the purpose of acquisition of any land including the lands in question strictly in accordance with law. The application stands allowed to the extent indicated above. (Birendra Prasad Verma, J) BTiwary/-

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