

Ramanandi Devi Hindu Anathalaya Vs. State of Bihar and ors.

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Court : Patna

Decided On : Oct-06-2005

Judge : Narayan Roy, J.

Acts : [Land Acquisition Act, 1894](#) - Sections 4(1) and 6

Appeal No. : C.W.J.C. No. 3177 of 1984

Appellant : Ramanandi Devi Hindu Anathalaya

Respondent : State of Bihar and ors.

Advocate for Def. : Lalit Kishore, AAG III, Harishankar Roy, JC to AAG III, for State

Advocate for Pet/Ap. : B. K. Shukla, Sr. Adv. and Anurag K. Shukla, Adv.

Disposition : Application allowed

Prior history : Narayan Roy, J. 1. Heard counsel for the parties. 2. By this application, the petitioner challenges the entire land acquisition proceeding in Land Acquisition Case No. 19 of 1980-81. 3. It is submitted by learned Counsel for the petitioner that initially the notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter to be referred to as 'Act') is said to have been issued, but not in the manner prescribed in law. It is further submitted that the notification under Section 4(

Judgement :

Narayan Roy, J.

1. Heard counsel for the parties.

2. By this application, the petitioner challenges the entire land acquisition proceeding in Land Acquisition Case No. 19 of 1980-81.

3. It is submitted by learned Counsel for the petitioner that initially the notification under Section 4(1) of the [Land Acquisition Act, 1894](#) (hereinafter to be referred to as 'Act') is said to have been issued, but not in the manner prescribed in law. It is further submitted that the notification under Section 4(1) of the Act was not displayed at convenient places in the said locality and the petitioner had no knowledge of the same. It is also submitted that after issuance of the notification under Section 4(1) of the Act dated 1-7-1980 a corrigendum was issued by the Collector dated 4-6-1981 making certain corrections in the date of the said notification and also of the boundary of the land, but no notification afresh was issued in terms of Section 4(1) of the Act, and, therefore, on this ground alone, the entire proceeding vitiates. At the same time, learned Counsel also submitted that the corrigendum, as contained in Annexure 2, and that of the declaration, issued under Section 6 of the Act are one and the same and it appears that simultaneously, the corrigendum and declaration were issued on 4-6-1981.

4. Since the proceeding is being challenged on the grounds, as referred to above, in my opinion, I need not go in detail unless I find materials contrary to the submissions made by learned Counsel for the petitioner.

5. Though a counter affidavit has been filed on behalf of the respondents, it is nowhere explained as to whether after issuance of the corrigendum dated 4-6-1981, the date of the notification and boundary of the land were sought to be corrected, a fresh notification under Section 4(1) of the Act was issued nor there is any explanation as to under what circumstances the declaration was issued under Section 6 of the Act on 4-6-1981 on the date when the corrigendum was issued, as contained in Annexure 2.

6. After issuance of the corrigendum, as contained in Annexure 2, it appears that the description of the land had changed in view of certain corrections sought for in the boundary, and, therefore, necessarily, a fresh publication was required to be issued under Section 4(1) of the Act and since no such notification was issued after Annexure 2 dated 4-6-1981, the whole proceeding vitiates.

7. It is informed at the bar that by virtue of the interim order passed by this Court dated 13-7-1984 they are not in a position to convey as to whether the delivery of possession has been affected or not.

8. Considering the facts and circumstances of the case and for the reasons, aforementioned, this application is allowed and the entire acquisition proceeding in Land Acquisition Case No. 19 of 1980-81 is hereby quashed. However, the respondents may be at liberty, if so advised, to proceed in the matter afresh in accordance with law.

9. No order as to costs.

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