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Court : Patna

Decided On : Aug-05-1999

Reported in : 1999(3)BLJR2127

Judge : S.K. Singh, J.

Appeal No. : Crl. W.J.C. No. 121 of 1999

Appellant : Sanjiv Kumar Singh and ors.

Respondent : State of Bihar and ors.

Judgement :

1. Heard the parties.

2. In this case, petitioners obtained settlement of lands for the purpose of cultivation under the orders of Subdivisional Magistrate, Manjhaul in course of a proceeding under Sections 145 and 146(1), Cr. P.C. Their grievance is that after taking the settlement, they paid the bid amount and thereafter, made a request for deputation of a Magistrate and police force so that the cultivation work may be conducted without interference by anti-social elements. It appears that by order contained in Annexure-4, the Subdivisional Magistrate deputed Anchal Adhikari, Khodawandpur to act as Magistrate and he was also directed to obtain necessary police force from the Officer Incharge of Khodawandpur Police Station. It appears from a letter bearing No. 24 dated 29-1 -1999 contained in Annexure 9, which has been issued by Anchal Adhikari, Khodawandpur to Sub-divisional Magistrate,

Manjhaul that he received some telephonic message and acting on that basis, the police force deputed with regard to the cultivation of lands settled with the petitioners had been returned back and the entire work had been stayed. Petitioners have in particular challenged the entire action as evidenced by Annexure-9 on the ground that such action on the basis of administrative orders on telephone amounts to interfering with and disregarding quasi judicial order passed by competent authority as contained in Annexure-4.

3. Earlier, a counter-affidavit was filed in this case sworn by the Circle Officer and thereafter further counter-affidavits have been filed pursuant to direction of this Court, by the District Magistrate as well as the Superintendent of Police concerned. Their stand is that due to sudden spurt in Naxalite activities in area concerned, there was heavy requirement of armed forces for urgent police work and hence, under compulsion of circumstances, direction had been issued to withdraw police forces deputed for protecting the cultivation work of petitioners' land or such similar works. From the counter-affidavit, it further appears that as a fact the cultivation work was obstructed by a strong mob of so called Naxalites and on that account also, the Magistrate and the police force found themselves unable to deal with the situation without further reinforcement and hence, they had to opt for withdrawing the police force.

4. The issues arising in this case are indeed complex inasmuch as it may arise for determination as to what is the duty of police district administration vis-a-vis right of citizens to enjoy their property rights such as cultivation of lands to which the citizens may be entitled in law. In my view, the attitude adopted by the respondents will only amount to shirking their legal responsibilities but. this is only a tentative view because at times other interests may have overriding effects. I am not going further into this case because admittedly, the period of settlement made with the petitioner has expired and hence, in my view it would be futile to go into this aspect of the controversy only for shake for academic discussion.

5. As regards the reliefs which can be granted to the petitioners at this stage, it appears from paragraph 16 of the counter-affidavit of the Circle Officer that the respondents are prepared to return the bid amount deposited by the petitioners on

account of disturbances they faced in cultivating the land settled with them. I, accordingly, direct the respondents to return the bid amount to the petitioners within a period of one month from the date of production/ communication of this order to the respondent No. 3. It appears that for obtaining the police force the petitioners had to deposit, necessary money as fee or expenses. Since the police protection was withdrawn, in my view, the respondents have to refund the said amount also within the time-limit fixed above.

6. A prayer has been made on behalf of the petitioners that, the respondents should be asked to compensate the petitioners for the loss they might have suffered on account of disturbances in cultivation of lands settled with them. In my view, that aspect of the matter cannot be gone into in this application. However, liberty is granted to the petitioners that if they are so advised, they may pursue their claim for compensation before appropriate forum in accordance with law.

7. Before parting with this order, I would like to indicate that it is the bounden-duty of the respondent-authorities to see that valuable cultivable land is not allowed to remain fallow to the detriment of rival claimants of possession. Hence, in my future, they should be more careful in making settlement of the land in due time so that it does not remain lying useless.

8. With the aforesaid directions and observations, this application is finally disposed of.

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