

Saryug Sharma, and ors. Vs. the State of Bihar, and ors.

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Court : Patna

Decided On : Jul-01-2010

Judge : Navin Sinha; Dinesh Kumar, JJ.

Acts : Land Acquisition Act - Section 6, 4, 5A

Appeal No. : CIVIL WRIT JURISDICTION CASE No.11040 OF 1992

Appellant : Saryug Sharma, and ors.

Respondent : The State of Bihar, and ors.

Advocate for Def. : MRS.MRIDULA MISHRA, Adv.

Advocate for Pet/Ap. : MR. RAJESH PRASAD CHAUDHARY, Adv.

Judgement :

1. Kumar petitioners. No one appears on behalf of the State. Singh, J.J.No counter affidavit has been filed on behalf of the respondents.

2. Learned counsel for the petitioners submits that he has been served with a copy of the counter affidavit on 13.5.1993. We therefore requested him to place the same before us for perusal. We have gone through the counter affidavit of the respondents and shall make appropriate reference to the pleadings therein after we notice the facts of the case. Learned counsel for the petitioners submits that the challenge in the writ application was to the declaration under Section 6 of the Land Acquisition Act, published on 16.9.1992, notifying the lands of the petitioners,

for a public purpose. It is their case that prior to the declaration, the petitioners had no knowledge or notice about the acquisition proceedings. No copy of the statutory notification under Section 4 of the Land Acquisition Act was issued much less served upon the petitioners and therefore they were deprived of the opportunity to file objections under Section 5A of the Land Acquisition Act.

3. They represented before the authorities on the aforesaid illegalities by Annexure-2, raising issues that the lands were agricultural, irrigated and raising good crops.

4. The counter affidavit of the respondents states that notification under Section 4 was served upon the petitioners, without any supporting proof with regard to the date of publication etc. It then goes on to state that another had filed objections.

5. The counter affidavit does not state at any stage that it was an emergency acquisition under the Land Acquisition Act obviating the need for inviting objections under Section 5 of the Land Acquisition Act. The counter affidavit is obviously cryptic and not of much help.

6. On record is the order dated 8.1.1998 noticing the stand of the petitioners that perhaps the land has been denitrified when subsequently the matter got adjourned on the controversies with regard to the publication of the notifications in the District Gazette and State Gazette. Today counsel for the petitioners makes a submission on instruction that the petitioners are still in possession of their lands. The land proceedings were never concluded. No final Award was passed and compensation paid. In fact, some of them have also sold their lands subject to acquisition proceeding to the third persons. Perhaps that may be the reason of the disinterest of the State to appear in the present matter.

7. This writ application is disposed in terms of the submissions made on behalf of the petitioners. If the land acquisition proceedings have not been concluded and the petitioners are wrongly in possession or sold their lands contrary thereto, we make no observation with regard to the same, except to record that the State shall then beat liberty to proceed and act in accordance with law.