

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 7561 OF 2008

BUDHA GRIH NIRMAN SAHYOG SAMITI & ORS. Appellant (s)

VERSUS

STATE OF BIHAR & ORS. Respondent(s)

O R D E R

Interlocutory Application No. 9 of 2013 is rejected.

2. We have heard Mr. M.K. Garg, learned counsel for the appellants, and Mr. Narendra Kumar, learned counsel for respondent No. 7 - Budha Colony Sangharsh Samiti.

3. The grievance of the appellants in the present appeal is with regard to the direction given by the High Court that the respondent authorities may direct the appellant No. 1 - Budha Grih Nirman Sahyog Samiti (respondent No. 9 therein) to offer membership to the members of present respondent No. 7 - Budha Colony Sangharsh Samiti (writ petitioner before the High Court).

4. It is submitted on behalf of the appellants that the direction issued by the High Court is violative of the principles of natural justice inasmuch as without hearing the appellant No. 1 - Budha Grih Nirman Sahyog Samiti, such a drastic order has been passed.

5. Learned counsel for the respondent No. 7 (Writ Petitioner) fairly submits that the present appellants were not heard and without hearing them, the impugned direction came to be issued. He further submits that the matter may be sent back to the High Court for reconsideration of the entire matter.

6. The order passed by this Court on August 31, 1995, however, persuades us not to send the matter back to the High Court. In Civil Appeal No. 7803 of 1995 decided on August 31, 1995 arising out of the acquisition of subject land, this Court in paras 11 and 12 of that order observed as follows :-

"11. Mr. Sanyal, senior counsel feebly raised the plea that

the Government authorities did not take possession of a small portion of the land, about 7 acres; and there is no award relating thereto, and the proceedings regarding that portion of the land, had lapsed. This plea is without substance. In our view the proceedings dated 31.7.1984 is in substance an award passed in pursuance of the directions given by this Court in CWJC No. 3421/82. The entire land, for which request for acquisition was made by the Authority, was delivered over to the Authority. Possession was taken of the entire land and the plea that possession of a small portion of the land was not taken is against the record (see AIR 1974 SC 1886 at 1889).

12. All the contentions urged on behalf of the appellants fail. The appeals are wholly without merit and we dismiss them with costs. It is distressing to note that the land acquisition proceeding which was initiated for a very laudable purpose, more than 37 years ago, is not yet complete. At one point of time, it was brought to the notice of the Court that even the files relating to the acquisition of land are not traceable. The High Court was constrained to hold, on an earlier occasion, that non-traceability of the files must be attributed to deliberate destruction of the relevant files by the "interested parties", and "but for the intervention of influential persons", the Government would not have stayed the entire proceedings as it did on 3.5.1965. We are constrained to observe that the hands of the interested parties seem to be still active, and the intervention of such influential persons has not disappeared (AIR 1974 SC 1888). A laudable and noble cause is delayed for more than 3 decades, under one pretext or the other. We express our anguish in the entire episode. We, therefore, direct the State of Bihar, its officials, the authorities and other persons concerned who are seized of the subject matter of the instant land acquisition proceedings, to complete the proceedings in the quickest possible time. We further direct the appellants in these appeals to pay costs of Rs. 10,000/- in each of these appeals, towards the Advocate's fees for the Society."

7. In 1995 the Court observed that the land acquisition proceedings which were initiated for a very laudable purpose after more than 37 years was not yet complete; the interested and influential persons have delayed the laudable and noble cause to be achieved.

8. The Writ Petition filed by the present respondent No. 7 - Budha Colony Sangharsh Samiti - apparently is nothing but an abuse of process on the face of the order of this Court dated 31.08.1995. The High Court ought not to have granted any direction in the Writ Petition as has been done.

9. We, accordingly, set aside the order dated 13.12.2006 passed by the High Court. As a result thereof, the Writ Petition (being Writ Petition (Civil) No. 12377 of 2005) filed by the present respondent No. 7 - Budha Colony Sangharsh Samiti - stands dismissed.

10. Civil Appeal is allowed with no order as to costs.

11. Needless to say that if there is any grievance about the functioning of the first appellant - Budha Grih Nirman Sahyog Samiti - the aggrieved person may initiate appropriate proceedings before the concerned authority in accordance with law. If such proceedings are initiated or if they have already been initiated, the concerned authority shall decide the same appropriately in accordance with law

uninfluenced by the present order.

.....J.  
( R.M. LODHA )

NEW DELHI; .....J.  
NOVEMBER 13, 2013 ( MADAN B. LOKUR )

ITEM NO.115 COURT NO.3 SECTION XVI

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

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BUDHA GRIH NIRMAN SAHYOG SAMITI & ORS. Appellant (s)

VERSUS

STATE OF BIHAR & ORS. Respondent(s)

(With appln(s) for permission to file lengthy list of dates  
and directions and office report)

Date: 13/11/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA  
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Appellant(s) Mr. M.K. Garg, Adv.

For Respondent(s) Mr. Narendra Kumar, Adv.  
Ms. Astha Tyagi, Adv.  
Mr. C. Kannan, Adv.

Mr. Gopal Singh, Adv.  
Mr. Manish Kumar, Adv.  
Mr. Chandan Kumar, Adv.

Mr. Akhilesh Kumar Pandey, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Civil Appeal is allowed in terms of the signed order.

Pending interlocutory applications stand disposed of.

|(Rajesh Dham)  
|Court Master

|(Renu Diwan)  
|Court Master

(signed order is placed on the file)