

IN THE HIGH COURT OF JUDICATURE AT PATNA

Company Petition No.3 of 1984

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In the matter of Rohtas Industries

(In Liquidation)

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL ORDER

445 06-09-2012

Re: Item No.1, Petition filed by BSEB at Flag-728:

As again prayed for by the Official Liquidator,
put up on 28th September, 2012.

Re: Item No.2, OLR 20/2012 at Flag-863:

As prayed for by learned counsel for the State,
put up on 28th September, 2012 to enable him to file the reply on
behalf of the District Magistrate, Rohtas.

Re: Item No.3, I.A.No. 4369/2012 filed by Bhartiya Rail
Bijlee Co. Ltd. at Flag-870:

As prayed for by learned counsel for the
BRBCL, put up on 13th September, 2012.

Re: Item No.4, I.A.No. 5326/2012 filed by Nihora Singh &
ors. at Flag-874:

The interlocutory application has been filed with
a prayer to release the acquired raiyati lands of the petitioners'
ancestors as described in para-2 of the interlocutory application
under the provisions of the Land Acquisition Act vide
Declaration No. 7425 R dated 28.7.1959 published at page 2339

Part II of the Bihar Gazette dated 19.8.1959 in Proceeding No. 38/V59 of District Shahabad, the possession of which was handed over to the Rohtas Industries by the district authorities.

It is submitted by learned counsel for the applicants that the lands in question of Mauza Mathuri in the then District of Shahabad were raiyati lands of the ancestors of the applicants. The lands were acquired in land acquisition proceeding by the State Government for the Rohtas Industries Limited. It is his further stand that from the date of acquisition the company never used the land either for construction of residential building for employees or for any other purpose and the lands are still vacant. In the said circumstances, learned counsel for the petitioner submits that the lands be released in favour of the petitioners.

On specific query by this Court as to the provisions in the Land Acquisition Act under which the land can be released in favour of the applicants, learned counsel for the applicants was unable to point out any such provision. He fairly admitted that there is no such provision under the Land Acquisition Act except making a reference to Section 44A of the Act which provides that no Company under this part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift and lease or otherwise except with the previous sanction of the appropriate Government.

It is evident from a perusal of the aforesaid provision that the same does not confer any right upon those whose lands had been acquired and is a matter between the company for whose benefit the land was acquired and the State Government and as a matter of fact no such action was taken by



the Company. The company is already under liquidation and there is no question of any action of the said nature being taken by the Company.

In the aforesaid view of the matter, this Court does not find any merit in the application. It is, accordingly, dismissed.

Re: Item No.5, Audit of Half Yearly Accounts of the Company:

The Official Liquidator had earlier filed Half Yearly Accounts of the Company from 1.10.2002 to 31.3.2008 of the accounts maintained at Official Liquidator Office situated at Patna. He has further filed Half Yearly accounts of Patna Office from 1.4.2008 to 31.3.2012. The Official Liquidator was pointed out that Half Yearly Statements of Accounts did not reflect the accounts of the office of the company at Dalmianagar, Rohtas and adjournment had been sought by him. The Official Liquidator has now filed the Half Yearly Statements of Accounts of the company of its Dalmianagar office separately from 1.10.2002 to 31.3.2012.

In his report the Official Liquidator has stated that accounts for 1.1.1996 to 30.9.2002 were separately audited by M/s. P.Puneet & Co. Chartered Accountants who were appointed by Court's order dated 5.11.2004. The audit report for the period 1.1.1996 to 30.9.2002 is annexed to the report of the Official Liquidator.

It is reported by the office that this report of M/s. P.Puneet & Co. was not earlier submitted before this Court for perusal and acceptance. It is found that certain observations had

been made in the auditor's report for the said period.

The O.L. is directed to file a reply with respect to the said observations of the Chartered Accountants.

Further the Half Yearly Statement of Accounts for the period from 1.4.2008 to 31.3.2012 has also been filed by the Official Liquidator. The said Half Yearly Statements of Accounts for the period from 1.10.2002 to 31.3.2008 and 1.4.2008 to 31.3.2012 shall be considered after the reply of the Official Liquidator on the earlier audit report for the period from 1.1.1996 to 30.9.2002 is received.

Put up on 28th September, 2012.

S.Pandey/-

(Ramesh Kumar Datta, J)