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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

JUDGMENT

S.B. CIVIL MISC. APPEAL NO. 1489/2007

HAZARI LAL (DECEASED) THROUGH LRs & ORS.
Vs.
THE STATE OF RAJASTHAN & ANR.

DATE: 28.09.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. U.P. Gaur for the appellants.
Mr. R.N. Mathur for the respondent No.2.

The matter comes up on the misc. application for seeking vacation of the ex parte interim order dated 08.05.2007 granted by this Court.

Both the learned counsel for the respective parties submit that the civil misc. appeal may be decided finally at this stage.

Learned counsel for the appellants submits that the appellants' land measuring 10 Bighas 4 Biswas has been taken by the respondents for construction of Office of Divisional Commissioner, Bharatpur.

As per the respondents, they have already started work but on account of stay order, construction work has now been stopped.

The appellants submitted that their rights are not secured as the land has been taken over by the respondents without paying compensation.

On the contrary, learned counsel appearing for the respondents submits that compensation amount has already been deposited, but the same has not been accepted and there is dispute with regard to rate of compensation, which is sub-judice before the Civil Court in a suit and can only be decided in the suit, which is pending.

It is also stated at bar on behalf of the respondents that they are always ready to pay the compensation to the petitioner in lieu of acquisition of land measuring 10 Bighas and 4 Biswas and the same has been deposited.

The appellants main contention is that since the acquisition was initiated by the U.I.T. without framing scheme, therefore, U.I.T. require to initiate fresh proceedings of acquisition.

Be that as it may. I do not want to enter into the disputed facts of the matter but I am of the view that the rights of the appellant be secured. Learned counsel appearing for the respective parties does not dispute that the suit is pending and even

otherwise also, the appellants are at liberty to redress their grievance before the appropriate forum for appropriate compensation.

But in any case, I find no illegality in the order impugned dated 29.03.2007 passed by the Additional District Judge No.2, Bharatpur, whereby the temporary injunction granted by the Court below on 03.06.95, has been rejected.

The respondents in its application have submitted that they require to construct the Office of the Divisional Commissioner, Bharatpur and the Contractor issued legal notice that on account of interim order of this Court on 08.05.2007, the construction cannot be carried out.

Looking to the exigency of the work and in the public interest, I deem it proper to allow the application filed on behalf of the respondents and vacate the ex parte interim order dated 08.05.2007 granted by this Court.

The misc. application stands disposed of with liberty to the appellants that they may redress their grievance with regard to compensation in lieu of acquisition of their land measuring 10 Bigha 4 Biswas before the appropriate forum.

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With these observations, the civil misc. appeal stands disposed of.

(K.S. RATHORE),J.

/KKC/