Supreme Court of India
Rukumanand Bairoliya vs The State Of Bihar on 5 January, 1971
Equivalent citations: AIR 1971 SC 746, (1971) 3 SCC 167, 1971 III UJ 143 SC
Author: A Grover
Bench: J Shah, A Grover, K Hegde
JUDGMENT A.N. Grover, J.

1. This is an appeal by certificate from a judgment of the Patna High Court by which a petition under Articles 226 and 227 of the Constitution filed by the appellant was dismissed.

2. The disputed land belonged originally to one Anwar Ali Khan. His heirs gifted it to Mustaque Ali Khan. It was recorded as Ghairmazrua orchard. Mustaque Ali Khan settled this land and some other land with Mohini Devi, the mother of the appellant by a registered patta dated June 19, 1946 on annual rental of Rs. 236/8/6 for the construction of houses thereon which could be rented out. The estate of Mustaque Ali Khan vested in the State of Bihar under the Bihar Land Reforms Act, 1950, hereinafter called the "Act". Mohini Devi created a trust in the name of her deceased husband of which the appellant was the Secretary. The disputed land continued to remain in his possession in that capacity. In 1956-57 proceedings were started for the acquisition of the disputed land for extension of the Darbhanga Medical College. An amount of Rs. 12, 689/2/-was assessed as compensation for the property which had been acquired and an award was made in the joint names of the appellant and the State of Bihar. Because the appellant objected to the inclusion of the State in the award he sought a reference Under Section 30 of the Land Acquisition Act. That reference was pending in the Court of the District Judge, Darbhanga when on April 16, 1960 proceedings Under Section 4(b) of the Act were started in respect of the disputed land. On April 25, 1961 the Land Reforms Deputy Collector made an order that the settlement of the disputed land with Mohini Devi in 1946 by Mustaque Ali Khan was invalid and that it should be annulled. This order was confirmed by the Collector of Darbhanga on May 25, 1962. The appellant moved the Commissioner for setting aside of the aforesaid orders but without any success. He then filed a petition under Articles 226 and 227 of the Constitution challenging those orders.

The High Court referred to the following part of the order of the Commissioner :

The circumstances of the settlement and certain features of the settlement itself may disclose the intention of the party The land has been settled at a very low rate of Rs. 3/-per katha. But the amount of compensation has been calculated at Rs. 12,689/2/-It is, therefore, obvious that the rate mentioned in the Patta did not disclose the real value of a plot of land situated in an important part of the city close to the Darbhanga Medical College Hospital. By acquiring such a valuable piece of land on a low rate, the intention of Smt. Mohini Devi was obviously to appropriate the profits which would have accrued to the State on vesting of the Zamindari. Had there been any intention of using this land for the construction of a house, the construction would have been taken in hand after obtaining the settlement. This was not done. The expansion of the Darbhanga Medical College "Hospital was a well known, and the possibility of obtaining advantage out of that expansion obviously attracted the purchaser.

It was contended on behalf of the appellant before the High Court that the revenue authorities had not referred to any specific evidence in respect of their conclusion on the question of loss to the State being the object of settlement. The High Court, however, was of the view that this contention was not well founded. This is what the High Court said :

Here the finding is based on circumstantial evidence as the order of the Commissioner, which I have extracted above, clearly shows. The revenue authorities were fully entitled to take into consideration the circumstances and features of the settlement for the purpose of determining the object with which it had been made. Besides, they also took into account the potential and the present value of the land which had been settled at a rate which, in the circumstances, was a very low rate, having regard to the situation of the land, I am, therefore, unable to accept the contention of the learned Counsel that there was no material before the revenue authorities to come to the conclusion at which they have reached The High Court, however, agreed that if the finding of the revenue authorities was based on no material whatsoever the position would be different.

3. Section 4 of the Act relates to the consequences of the vesting of an estate or tenure in the State. Under Clause (b) of that section the Collector has been empowered to make inquiries in respect of any transfer including the settlement or lease of any land comprised in such estate or tenure or the transfer of any kind of interest in any building etc. and if he is satisfied that such transfer was made at any time after the first of January 1946 with the object of defeating any provisions of the Act or causing loss to the State or obtaining higher compensation thereunder, the Collector may, after giving reasonable notice, annul such transfer and dispossess the person claiming under it. The order of the Deputy Collector as well as the Commissioner says that both the authorities were considerably influenced by the rental of Rs. 3/-per katha at which the settlement had been taken. The High Court also was of the view that this fact weighed with the authorities among other considerations in coming to the conclusion that the settlement had been made with a view to causing considerable loss to the State Government. In our opinion neither the revenue authorities nor the High Court took into consideration the absence of any proof having been adduced with regard to the actual rate of settlement prevailing at the time when the settlement of the disputed land was made. We are altogether unable to understand how the rate of Rs. 3/-per katha was considered to be very low when no material had been produced to show what the current rate of rental prevailing at the relevant time was of land similar to the disputed land. Therefore one of the principal matters which weighed with the authorities and the High Court was based on pure assumptions and conjectures and on no evidence whatsoever. On this ground alone the impugned orders should have been quashed.

4. The appeal is allowed and the impugned orders are hereby set aside. The appellant shall be entitled to his costs in this Court.