

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11761 of 2014

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1. Dilip Garai Son of Sri Kapileshwar Garai, resident of Village- Sherpur Dhepura, P.S- Vidyapati Nagar, District- Samastipur.
 2. Ram Chandra Choudhary, S/o Late Ajab Lal Choudhary resident of village- Sherpur Dhepura, P.S- Vidyapati Nagar, District- Samastipur.
 3. Dinesh Choudhary S/o Late Ajab Lal Choudhary, resident of village- Sherpur Dhepura, P.S- Vidyapati Nagar, District- Samastipur.

... Petitioners

Versus

1. The State of Bihar through the Collector, Samastipur
2. The Collector, Samastipur.
3. The District land Acquisition Officer, Samastipur.
4. The Chief Engineer, Floor Control, North Bihar, Muzaffarpur
5. The Director, Land Acquisition, Water Resources, Govt. of Bihar, Patna.
6. Principal Secretary, Water Resources, Deptt., Govt. of Bihar, Patna
7. The Executive Engineer, Flood Control Division, Dalsingsarai
8. Special Land Acquisition Officer, Darbhanga

.... Respondents

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Appearance :

For the Petitioners : Mr. Siya Ram Sahi,
Mr. Arvind Kumar, Advocates
For the State : Mr. Anjani Kumar, A.A.G. 6,
Mr. Sanjay Kumar, A.C. to A.A.G. 6

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-01-2015

Learned counsel for the petitioners is permitted to implead Principal Secretary, Water Resources, Department, Government of Bihar, Patna, the Executive Engineer, Flood Control Division, Dalsingsarai and the Special Land Acquisition Officer, Darbhanga as respondent nos.6, 7 and 8 respectively.

Petitioners are aggrieved by the action of the State authority as all of them claim that, without initiation of proper land

acquisition proceeding, their lands described in paragraph nos.4, 5 and 6 have been utilized in the construction of embankment and approach road etc.

Respondent nos.2 and 3 in their counter affidavit clearly admit that the lands in questions have not been acquired so far and no compensation has been paid but it is also stated that no possession has been delivered to the requiring body. Whereas, this is also a fact, as stated by learned counsel for the State on instruction, that embankment has been completed and the lands of the petitioners have been utilized without payment of compensation.

Though the right to property does not find a place in Part III of the Constitution of India any more but at the same time this is also a fact that it still finds place in the Constitution under 300 A which provides as follows.

“300-A. Persons not to be deprived of property save by authority of law. – No person shall be deprived of his property save by authority of law.]”

It is well settled that a property of a person cannot be utilized by the State either without his consent or without its acquisition in accordance with law. A reference is being made in this regard to a decisions of the Apex Court rendered in **Bhimandas Ambwani (Dead) through LRS Vs. Delhi Power**

**Company Limited [(2013) 14 Supreme Court Cases 195] and
Tukaram Kana Joshi and Ors. through Power-of-attorney
Holder Vs. Maharashtra Industrial Development Corporation
and Ors. [(2013)(1) Supreme Court Cases 353].**

In view of the admitted fact that the petitioners' lands have been utilized in construction of embankment and in paragraph no.8 of the counter affidavit filed on behalf of the respondent nos.2 and 3 it has been sated that the Special Land Acquisition Officer, Darbhanga is likely to initiate the land acquisition process for acquisition of the lands very soon, this writ application is being disposed of with a direction to respondent nos.6, 7 and 8 to take steps for the acquisition and payment of compensation in accordance with law to the petitioners expeditiously preferably within a period of six months.

(Dr. Ravi Ranjan, J)

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