

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.448 of 2014

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1. Surendra Singh Son of Late Dev Nandan Singh Resident of Village and
P.O. - Charpokhari, P.S. - Charpokhari, District - Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner-Cum-Secretary, Revenue and Land Reforms
Department, Bihar, Patna
3. The Director, Land Acquisition Department, Bihar, Patna
4. The District Magistrate, Bhojpur at Ara
5. The District Land Acquisition Officer, Bhojpur at Ara
6. The Circle Officer, Charpokhari, District - Bhojpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brajesh Prasad Gupta, Adv.

For the Respondent/s : Mr. Md. Raisul Haque, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

13 27-07-2015 The petitioner has questioned the entire proceedings arising from L.A. Case No. 37/5 of 2012-13 including the notification issued under section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'), the declaration under section 6 as well as the follow up notices issued for acquisition of land bearing Khata No.42 Khesra No.777 having area of 39 decimals for setting up of police station. A detailed order was passed by this Court on 21.1.2014 while directing for filing of counter affidavit and ordering for maintenance of status quo.

The sum and substance of the argument of the petitioner to question the acquisition proceedings is that even when there is alternative Government land available and even when a near completed police station thereon is available, yet an avoidable

acquisition is being carried out at the cost of the public exchequer.

Annexure-E to the second supplementary counter affidavit filed on behalf of the respondents practically confirms what the petitioner submits that the piece of land on which initially the police station was being constructed bearing Khata No.141, Khesra No.483 admeasured 1.11 acres and was sufficient for construction of a police station.

Although Mr. Krishna Kant Singh, learned A.C. to S.C.4 submits that a portion of the said plot was being used for religious purposes but even while making such submissions he admits that there is at least 81 decimals of land yet available for construction of the police station.

The order of this Court passed in the earlier round of litigation arising from C.W.J.C. No. 13744 of 2002 reflects that it was on the basis of a decision taken by the Commissioner that the land available on plot no. 483 was insufficient that the bench while disposing of the writ petition and while restricting the respondents from constructing the police station on Plot No.483 had clarified that the restraint was only until sanction is accorded by the competent authority. On the other hand the objection of the Commissioner to the construction of the police station on plot no. 483 was inter alia on grounds that the area of the plot was only 0.35 acres which is factually incorrect and contrary to the

certification present at Annexure-E which manifests that plot no.483 is a Government land and admeasures 1.11 acres. In fact the respondents themselves at paragraph 6 of the supplementary counter affidavit have stated that although a part of the said plot is being utilized for religious purposes but 81 decimals of land of the said Government land is yet available for the purpose.

The photographs placed on record shows that a major portion of construction of the police station, has already taken place on plot no. 483 and which should have been completed by the State without any delay as the hard earned tax payers money cannot be allowed to go waste.

It is rather preposterous that the State has so casually abandoned the semi built police station at plot No.483 citing reasons of lesser area even when the Government was possessed with 1.11 acres of its own land of which 81 decimals is admittedly available for completion of the project. In the circumstances it did not suit a welfare State to indulge in a luxury of fresh acquisition especially where it resulted in making the landholder landless.

In my opinion, in view of the report of the Circle Officer present at Annexure-E read with paragraph 6 of the second supplementary counter affidavit filed on behalf of the State, the initiation of the land acquisition proceedings arising from Case No.37/5 of 2012-13 for acquisition of land including that of the

petitioner was an abuse of the statutory powers, unpardonable waste of public money and a poor reflection of the handling of matters involving public interest and public money.

In result, the entire land acquisition proceedings arising from Case No. 37/5 of 2012-13 inclusion of the notification issued under Sections 4 and 6 of the Land Acquisition Act, 1894 cannot be upheld and are accordingly set aside.

The writ petition is allowed.

The respondents are directed to complete the construction of the police station existing plot No.483 of Khata No.141 at village Charpokhari in the District of Bhojpur without unnecessary delay.

(Jyoti Saran, J)

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