

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4565 of 1995

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Jayendra Prasad Sharma, son of Late Deo Dhari Prasad Sharma,
resident of village Haripur Krishma, P.S. Sakra, District – Muzaffarpur.
..... Petitioner

Versus

1. The State of Bihar
 2. Collector, Muzaffarpur.
 3. Circle Officer, Sakra, District – Muzaffarpur.
 4. Block Development Officer Sakra Block, District – Muzaffarpur.
 5. Sarpanch Raghunandanpur Gram Panchayat, P.S. – Sakra, District – Muzaffarpur.
 6. Officer-in-Charge, Police Station – Sakra, District – Muzaffarpur.
- Respondents

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL JUDGMENT

Date: 07-05-2015

No one is present on behalf of the petitioner.

State is present.

2. This writ application has been filed by the petitioner for restraining the State and its instrumentalities from encroachment of three decimals of his land for constructing a public road. In the writ petition, it is stated that some Harijans had occupied unauthorizedly public cremation lands and they were removed by the order of the Collector, Muzaffarpur, and by orders passed in Public Interest Litigation by this court they were settled on small pieces of government land. Once, they got the settlement, they started demanding a road from that plot to the main

road. Considering the settlement, the authorities agreed to construct and widen the village lane to give access to these people to the main road.

3. It is alleged that if land is gone up for the said road laid upon part of his land but the Sarpanch of the Gram Panchayat mischievously planned and got it altered to save his land. Accordingly, in the revised plan the road was now to be constructed upon petitioner's land. The petitioner immediately protested to the Collector. The Collector directed to enquire into the matter and till enquiries are made, the road should not be constructed. For some time, no work was done but suddenly thereafter the local officials again started making construction upon the said land of the petitioner unauthorizedly. The petitioner tried to inform the police and restrain the authorities but nothing happened, and, as such, he has approached the court.

4. There was an interim order in the very beginning of these proceedings before this court directing the parties to maintain status quo. Counter affidavit has been filed on behalf of the Collector duly sworn by the Deputy Collector in which the basic averments of the



petitioner have been accepted. It is accepted that the public road that was to be made was to pass over about three decimals of petitioner's land. Petitioner had not consented for it. The State Administration was ready to pay compensation. It was for the benefit of villagers.

5. In my view, these facts as stated in the counter affidavit, the State Administration is bound to prove the allegation as made by the petitioner that these lands are being unauthorizedly encroached upon.

6. In view of the aforesaid, it is well-established that no one can be deprived of his land which is a property accepted by authority of law and in accordance with the procedure established by law under Section 300A of the Constitution of India.

7. In that view of the matter, I have no option but to hold that if the road has already not been constructed and the authorities have not acquired any portion of petitioner's land then either the authorities would ensure that the land of the petitioner are vacated and handed over free from any encumbrances to the petitioner or within six weeks from today adequate compensation must be paid to the petitioner for the aforesaid land. It shall



be the responsibility of the Collector, Muzaffarpur, to ensure proper compliance of the orders of this court.

8. The writ petition, with the aforesaid direction, is thus disposed of.

(Navaniti Prasad Singh, J.)



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