

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10573 of 2015

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1. Rakesh Kumar Yadav @ Rakesh Yadav son of Ram Kripal Choudhary
2. Ajit Kumar Yadav son of Ram Kripal Choudhary both are residents of Village-
Bikrampur, P.S.+Anchal- Vijayipur, District- Gopalganj.

.... Petitioners

Versus

1. The State of Bihar
2. The Collector-cum-District-Magistrate, Gopalganj, District- Gopalganj.
3. D.D.C., Gopalganj, District- Gopalganj.
4. The Sub-Divisional Magistrate-cum-S.D.O. Hathua, District- Gopalganj.
5. The Programme Officer, Vijayipur Anchal, P.S. Vijayipur, District- Gopalganj.
6. The Circle Officer, Vijayipur Anchal, Vijayipur District- Gopalganj.
7. The Mukhiya, Gram Panchayat, Chaumukha (Ward No.6), Anchal- Vijayipur,
P.S.- Vijaypur, District- Gopalganj.
8. Shri Shambhoo Kumar Choubey, Director, Sunsine Contractor (Pvt.) Ltd.,
Saraiya (Ward No.1), P.S. & District- Gopalganj.

.... Respondents

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Appearance :

For the Petitioners : Dr. Umashankar Prasad, Sr. Advocate,
Mr. Kamala Kant Tiwary, Advocate
For the State : Mr. Kumar Kamal Nayan, A.C. to S.C. 33

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 11-12-2015

Heard learned counsel for the petitioners and the State.

Petitioners seek restraint of the respondents from
construction of road over their raiyati lands claiming that the State
authorities are forcibly constructing the road upon it.

The description of the land belonging to the petitioner has
been given in paragraph no.4 of the writ petition. Petitioners have
appended copies of several sale deeds to impress upon this Court that
lands in question belong to them. They have also stated to have



approached the authorities including the Collector, Gopalganj vide Annexure 5 series raising the grievance but they have not received any communication that their grievance has been redressed or at least considered. It is well settled that the land belonging to a person can only be utilized after obtaining his consent or after its acquisition in accordance with law and payment of the compensation. Petitioners have also stated that, adjacent to the petitioners' land, there is a Gairmajarua Aam Land of plot no.307 which may well be utilized in place of their land for the concerned purpose after removal of necessary encroachment.

In above view of the matter, this writ petition is being disposed of with a liberty to the petitioners to once again approach the Collector, Gopalganj with a copy of this order by filing a fresh representation stating their claim and producing documents in support thereof. The District Magistrate-cum-Collector would be required to examine the matter and if he finds that the construction is going on upon the plots belonging to the petitioners without its acquisition in accordance with law or without their consent then he should either take steps for getting it acquired after payment of the compensation in accordance with law or he should immediately stop the construction going on or in case the construction has already been completed, it should be removed so that the original nature of the land is restored

back and the possession of such land should be handed over to the petitioners. In case he decides that either consent of land owner is there or the plots concerned do not belong to the petitioners then a reasoned order would be required to be passed and immediately communicated to the petitioners.

As the petitioners have stated that, adjacent to their land, there is a Gairmajarua Aam Land of plot no.307 which may well be used in place of their land for the concerned purpose, the Collector may also consider that option, if feasible.

It is expected that the aforesaid decision would be taken within six weeks from the date of filing of such representation by the petitioners and the consequential action should be taken immediately thereafter as observed. If a decision is taken to acquire the land then necessary proceeding should be initiated and completed expeditiously preferably within a period of six months.

(Dr. Ravi Ranjan, J)

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