

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12695 of 2014

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Smt. Usha Rani, wife of Sri Anil Kumar Mandal, resident of Mohalla- North
Hajipur, Kutchery Road, P.S.- Chitraguta Nagar, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Road Construction Department,
Government of Bihar, Bishwaesharaiya Bhawan, Bailey Road, Patna.
2. The District Magistrate, Khagaria.
3. The Sub- Divisional Officer, Khagaria.
4. The Dy. Collector Land Reforms, Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya

For the Respondent/s : Mr. Nadeem Seraj, GP-20

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 22-04-2015

Heard Mr. Dronacharya, learned counsel appearing
on behalf of the petitioner and Mr. Nadeem Seraj, learned
Government Pleader No.20 for the State.

This writ petition was initially filed seeking direction
to the respondents not to interfere with the right, title and
possession over the raiyati land of the petitioner and in case they
intend to acquire the same for construction of Rail-road/over-
bridge then she should be paid compensation. A further prayer
was made not to disturb the possession of the petitioner in the
garb of public land to deny compensation.

A counter affidavit has been filed on behalf of the
State and in which it has been specifically denied in paragraphs
13 and 15 that the respondents have nothing to do with the land
of the petitioner which is far away from the construction site. It
is also contended that the respondents have not disturbed the

possession of the petitioner.

In the meanwhile an encroachment proceedings has been initiated and the petitioner by way of an interlocutory application bearing I.A. No.3006 of 2015 now seeks to question the initiation of an encroachment proceeding under the provisions of the Bihar Public Land Encroachment Act, 1956 by impugning the notice in the interlocutory application.

In my opinion, this initiation of encroachment proceedings is an independent cause of action and cannot be challenged by way of an interlocutory application for the foundational facts to question the same is completely missing in the writ petition.

In the circumstances, this Court not finding sufficient ground to grant indulgence on the issue initially raised by the petitioner in respect of payment of compensation nor being satisfied that the petitioner can be permitted to question the encroachment proceedings by filing an interlocutory application would dispose of this writ petition affording liberty to the petitioner to question the initiation of the encroachment proceedings by way of an independent application.

(Jyoti Saran, J)

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