

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19645 of 2011

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(i). Ramashish Paswan
(ii). Shambhu Paswan
(iii). Sakaldev Paswan
(iv). Meena Devi
(v). Aano Devi
(vi). Geeta Devi All are sons and daughters of Late Parmeshwar Paswan R/V-
Chour Dargha, P.S.- Ariyari, District- Sheikhpura

.... Petitioners

Versus

1. The State of Bihar through Chief Secretary, Patna.
2. The Commissioner, Munger.
3. The District Magistrate, Sheikhpura.
4. The Additional District Collector (In-charge Jan Shikayat Officer), Sheikhpura.
5. The Block Development Officer (Md. Ibrar Alam), Ariyari Block, District-
Sheikhpura.
6. Sanjay Paswan Agent cum Contractor, S/O Shri Dhaneshwar Paswan R/V-Chor
Dargha, P.S.-Ariyari, District-Sheikhpura.

.... Respondents

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Appearance :

For the Petitioner/s : Mrs. Sudha Ambastha, Advocate

For the Respondent/s : Mr. Kumar Sachin, GP-24

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 24-09-2015

Heard learned counsel for the petitioners and learned
counsel for the State.

Some times in the year 1999, a proposal to construct
Harijan Samudayik Bhawan for the Gram Panchayat in village-
Ariyari in the district of Sheikhpura was taken and the same was
constructed on 02 decimals of land appertaining to Khata No. 253,
Kheshra No. 2253 of Mauza Ariyari in the district of Sheikhpura. On a
claim raised by the original petitioner, it appears that First Information



Report was lodged by the Block Development Officer, Ariyari on 01.10.2003 (Annexure-3) against the contractor/agent who was to construct the building. In substance, the allegation was that the government fund was misutilized by constructing the Harijan Samudayik Bhawan on Plot No. 2253 instead of Plot No. 2252. On investigation, chargesheet was submitted and in the trial the son of the petitioner was examined, however, no document of title, it appears, was produced. The Court acquitted the accused in the said case vide judgment dated 11.04.2012. Now the present writ petition has been filed for seeking the following relief:-

“For a direction to the respondents authorities to vacate the land under KHATA NO. 253, KHESRA NO. 2253, Raqawa No. 02D, situated in chourdargah, village Ariyari, the district of Sheikhpura and hand over, to the petitioner, or to provide the land near the plot of old land and suitably compensate the loss sustained by petitioner on account of undesirable act of the respondents authorities.”

The counsel for the petitioners has submitted with reference to various documents including the copy of the continuous Khatiyan that the said land measuring 02 decimals appertaining to Kheshra No. 2253 was recorded in the name of the original petitioner.

The respondents have illegally without acquiring the land after paying fair compensation therefor, has constructed the Harijan Samudayik Bhawan.

The petitioner is, therefore, entitled to either removal of the building and/or payment of fair compensation therefor by the said respondents.

In the counter affidavit, the respondents have stated that opportunity was granted to the original petitioner to produce documents of his title in the trial where the son of the original petitioner was examined. Nothing was produced by the petitioner, as a result of which, the trial ended in acquittal. The land of Kheshra No. 2253 of Khata No. 253 contained a large area. Only 02 decimals thereof is in dispute. It has not been shown to the respondents by the petitioners that the same belongs to the same Khatiyani land of the petitioners in which he had the possession. The present application is barred by delay and laches.

On consideration of rival submissions, it appears that the petitioners claim title over 02 decimals of land. Some documents of title have also been enclosed. If the respondents have constructed the building over the said plot, they are bound to pay fair compensation to the petitioners. Whether the petitioners have rightful ownership and possession over the land is a matter which needs

investigation/enquiry. However, a fair stand has been taken by the petitioners for payment of fair compensation for the land which belonged to them and on which it is said that a Harijan Samudayik Bhawan has been constructed.

In my view, the petitioners should raise grievance in this regard before the District Magistrate, Sheikhpura and if such claim is raised within four weeks, the Respondent-District Magistrate will make an enquiry about the said claim of the petitioners either himself or by a responsible Officer under him. If it is found that the land of the petitioners has been utilized in the construction of the Harijan Samudayik Bhawan in the village in question, the respondents will pay fair compensation therefor to the petitioner which is also one of the prayers made in the present writ petition. Such enquiry and decision on the petition of the petitioners shall be concluded as quickly as possible, preferably within four months from the date of filing of the application by the petitioners before the Respondent-District Magistrate along with a copy of the present petition.

The writ petition is disposed of, accordingly.

(Kishore Kumar Mandal, J)

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