

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17154 of 2015

Subodh Kumar son of late Narain Prasad, resident of Muhalla Bharaopar, Near Machhali Market Police Station- Laheri, District- Nalanda, at present Lecturer, Department of Chemistry, Purbottar Railway College, Sonapur, Police Station Sonapur, District- Saran.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Urban Development Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development Department, Government of Bihar, Patna.
3. The Collector, Nalanda, through the Chief Secretary, Bihar, Patna.
4. The Superintendent of Police through the Director General of Police, Bihar, Patna.
5. The Biharsarif Municipal Corporation, through its Mayor, Biharsarif, Nalanda.
6. Town Commissioner, Biharsarif Municipal Corporation, Biharsarif, Nalanda.
7. The Contractor, name not known to the petitioner, through Town Commissioner, Biharsarif Municipal Corporation, Nalanda.

.... Respondents

Appearance :

For the Petitioner : Mr. Santosh Kumar Sinha -2,
Mr. Vijay Kumar Verma, Advocates
For the Respondents : Mr. Bishwa Bibhuti Kr. Singh, Advocate

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 09-11-2015 Learned counsel for the petitioner is permitted to make necessary correction with respect to the description of the respondent no.6.

I have heard the parties.

Grievance of the petitioner is that land of plot no.954, khata no.306 of Muhalla Ramchandrapur, Nalanda is ancestral property allotted to his share in partition suit, is being utilized by

the Municipal Corporation, Bihar Sharif for construction of a road. The authorities have uprooted and removed the bamboo fencing and structure over 3' height pucca boundary wall and there is every possibility that boundary wall itself would be demolished any day.

Petitioner has appended a registered deed of settlement dated 14.10.1938 as well as a compromise decree prepared in the title suit no.74/1962 as contained in Annexure 2. It is well settled that the land of any person can be utilized by the State authorities or any statutory authority only with his/her consent or upon its acquisition in accordance with law after payment of compensation.

Since the grievance of the petitioner is that none of the aforesaid steps have been taken by the authorities and the land is being utilized forcibly, this Court is inclined to dispose of this writ application granting liberty to the petitioner to approach the respondent no.6 by filing a detailed representation along with a copy of this order raising all the aspects and along with copies of necessary documents in support of his claim. On such representation having been filed, let the Town Commissioner, Bihar Sharif Municipal Corporation examine the matter and take a final decision. It is made clear that if he comes to the conclusion that ancestral land of the petitioner which has been allotted to his

share is to be utilized in construction of a road then the same can only be done after its acquisition in accordance with law and payment of compensation to him. However, if he comes to the conclusion that the petitioner’s land is not to be utilized or the land in question does not belong to the petitioner then a reasoned order should be passed by him which should immediately be communicated to the petitioner.

Till a final decision is taken, let *status quo* as existing today over any part of the petitioner’s claimed boundary wall or house or plot should be maintained.

(Dr. Ravi Ranjan, J)

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