

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.372 of 2014

In

Civil Writ Jurisdiction Case No. 8249 of 2013

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Ram Krishna Yadav, S/o - Sant Lal Yadav, resident of Village - Simaria,
Tola - Kasaha, P.O. - simariya, P.S. - Chakiya (Barauni), Sub-Division and
District - Begusarai.

....Petitioner Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary.
2. The District Magistrate, Begusarai.
3. The Sub-Divisional Magistrate, Begusarai.
4. The O/C, (Chakia) Barauni Police Station, Begusarai.
5. The Circle Officer, Barauni, Begusarai.
6. The G.M., B.T.P.S., Barauni, Begusarai.

....Respondents Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shiv Shankar

For the Opp. Party-State : Mr. Dhananjay Kumar, AC to GP-16

For the Opp.Party-B.T.P.S. : Mr. Vijay Kumar Verma

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

10 29-07-2015

This civil review application has been filed by the
petitioner for review of the judgment and order dated 21.8.2014
passed in CWJC No.8249 of 2013.

A prayer is made by Mr. Shiv Shankar for
adjournment of the case on the ground of absence of Mr. Rakesh
Kumar who is the arguing counsel in the present case. There is
no sign of the Advocate on record Mr. Ravi Prakash. This Court
notices that since past three dates a prayer for adjournment has
been made on grounds of absence of the arguing counsel for the
petitioner. It is accommodating the counsel that the matter was
adjourned requiring the State Counsel to complete the pleadings

but despite the accommodation given again a prayer for adjournment is made which is rejected.

I have heard learned counsel for the opposite parties and I have perused the records.

Detail discussions of the facts and the issues raised stands recorded in the order passed on 18.2.2015 and requires no reiteration. Suffice it to say that the land of the petitioner bearing plot nos. 5086, 5087, 5088, 5090, 4506, 4549 and 559 of khata no.458/302 admeasuring 18 bigha, 13 katha, 5 dhur and 15 dhurki in Mauza Simaria in the district of Begusarai along with other lands was acquired by the State Government for construction of the Rajendra Ganga Bridge in Land Acquisition Case No.6 of 1954. Since a substantial portion of the land was not utilized that it was returned to the Fisheries Department and is lately been allotted to the Barauni Thermal Power Station for its project.

The petitioner questioned the action of the Barauni Thermal Power Project in using the lands and considering the nature of dispute raised in the writ petition that this Court dispose of the same requiring the writ petitioner to take recourse to the civil law remedy for establishing his title and possession over the land in question.



The petitioner armed with two documents filed the present review application to submit that the land in question has since been returned to the farmers and whereafter it is in their possession and there was no occasion for the State to allot the land to the Barauni Thermal Power Station for its project. It was the case of the petitioner that it is on discovery of these documents that the review application has been filed.

This Court considering the nature of the issues so raised by the petitioner directed the opposite parties to respond to Annexures-4 and 5 and whereafter a detail response has been filed not only by the State but also by the Barauni Thermal Power Station and Annexure-A to the counter of the State completely answers the issues so raised in this review application. Annexure- A to the counter affidavit of the State encloses a letter of the Circle Officer, Teghara addressed to the Additional Collector, Munger in which he has discussed that 554 acres of land acquired for the Rajendra Ganga Bridge was handed back to the Collector, Munger for using it under “grow more crops campaign’ and for its settlement with the villagers. It is perhaps in this context Annexure-4 and 5 could have been issued but the said decision of the Collector was not upheld and the Deputy Collector, Land Reforms, Begusarai vide letter dated



23.5.1960 directed that the entire land be transferred to the Fisheries Department. It is mentioned that the land was for a temporary period handed over to the Collector, Munger and whereafter it has gone under the jurisdiction of the Fisheries Department. Another issue that has been raised by the State is that in absence of any notification de-notifying the acquired land under section 48 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') the reliance placed by the petitioner on letter of Collector *ipso facto* would vest him with no jurisdiction.

It is considering the complicated issue of title and possession so raised by the petitioner that the writ petition was disposed of and by filing the review application the writ petitioner has not resolved the dispute rather it has further got complicated. Whether in the backdrop of the affidavit filed on behalf of the State and the Barauni Thermal Power Station the documents relied by the petitioner present at Annexures 5 and 6 can have any legal substance, this Court would not express any such opinion but in absence of any notification under section 48 of 'the Act' the petitioner also cannot question the acquisition of the land in question for the Railway project and its subsequent transfer to the Fisheries Department.

In the circumstances no case for review is made out

and since liberty has already been granted to the petitioner in the writ petition, if so advised, he may take recourse to the civil law remedy for establishing his title and possession over the land in question however in view of the complicated nature of issues of fact raised in the present proceeding the order passed in the writ petition would require no modification by way of review.

This civil review application is disposed of.

(Jyoti Saran, J)

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