

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3339 of 2013

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1. Shyam Bihari Singh @ Shyam B. Singh, S/O Late Balister Singh, Presently Residing at A/78 Harit-Bihar, Burari, New Delhi-110084, permanent Resident Of Village-Karara, P.S.Arrah Mufassil, Distt-Bhojpur
2. Kal Jharo Devi, W/O Ram Pravesh Singh, D/O Late Ragunandan Singh, R/O Barauli, P.S.-Piro, Distt-Bhojpur, Presently Residing at Village-Karara, P.S.-Arrah Mufassil, Distt-Bhojpur

.... Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Public Works Department, Vikash Bhawan, P.S.& Distt-Patna
2. The Superintending Engineer, Ara Circle, O/O Rural Works Department Ara, Govt. Of Bihar, Distt-Bhojpur(Ara)
3. The Executive Engineer, Rural Works Department, Government of Bihar, Sub Division, Arrah, Block-Arrah, Distt-Arrah
4. The District Magistrate, Bhojpur At Arrah
5. The Mukhia, Panchayat Karari, Village-Karari, P.S.-Arrah Muffasil, Distt-Bhojpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh

For the Respondent nos.1to4 : Mr. Ajay Kumar Sharma, AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

9 02-11-2015

Heard the parties.

The grievance of the petitioners is that a public road is proposed to be constructed in the district of Bhojpur over certain area of lands, which include the lands belonging to the petitioners also, but neither any land acquisition proceeding has been initiated nor any amount of compensation has been paid to them.

In the whole writ petition, description of lands belonging to the petitioners has not been disclosed. However, in the representations filed before the respondent Executive Engineer (respondent no.3) as also the respondent District Magistrate, Bhojpur at Arrah (respondent no.4) the plot numbers have been mentioned. The copies of the aforesaid representations have been brought on record as Annexure-1 series.

Learned counsel appearing on behalf of the petitioners submits that for construction of a public road from

Bashisth Narayan Path to Village-Karara in the district of Bhojpur steps have been taken by the State authorities, but so far the lands of the petitioners are concerned, no land acquisition proceeding has been started nor consent of the petitioners have been obtained for inclusion of their lands for the purposes of construction of the aforesaid public road.

Taking into consideration the factual matrixes of the present case, by an order dated 08.03.2013 passed by a Bench of this Court, construction of the aforesaid public road through private lands of the petitioners was stayed.

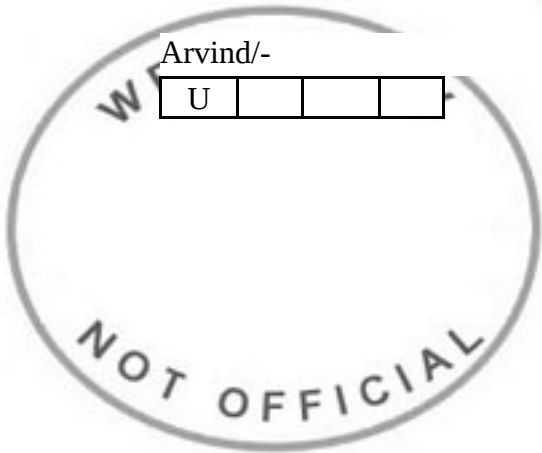
In compliance of the order/direction issued by this Court, a counter affidavit has been filed on behalf of the respondent nos.2 and 3 and in paragraph no.8 of the aforesaid counter affidavit it has been stated that in view of the objection raised by the local people construction work of the public road has been stopped. It has further been stated that the public road shall be constructed only through government land or after obtaining the consent from the land owners.

Though the aforesaid counter affidavit was filed way back on 26th April, 2013, but no rejoinder affidavit has been filed on behalf of the petitioners till date. Therefore, this Court has no option but to accept the correctness of the averments made in paragraph 8 of the aforesaid counter affidavit.

In that view of the matter, this Court is of the considered opinion that the cause of action does not survive and the present matter has become infructuous, since no public road is being constructed through the private lands of the petitioners.

It is clarified that no public road shall be constructed through the private lands of the petitioners, unless and until that is acquired in accordance with law or consent is obtained from the petitioners.

The writ petition stands finally disposed of with the observations and directions made above.



(Birendra Prasad Verma, J)