

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.934 of 2015

=====

1. Dalan Kumar Singh son of Janardan Prasad Singh
2. Manjeet Kumar Singh son Late jay Chand Singh
Both are residence of village – Malaypur, P.S. Barhat, District Jamui
..... Petitioners

Versus

1. The State of Bihar
2. The Principal Secretary Panchayati Raj, Bihar, Patna
3. The Principal Secretary, Rural Engineering Department, Bihar, Patna
4. The Principal Secretary, Rural Works Department, Bihar, Patna
5. The Principal Secretary, Rural Development Department, Bihar, Patna
6. The Collector, Jamui
7. The Sub Divisional Officer, Jamui, District Jamui
8. The Executive Engineer, Rural Engineer Organization, Rural Works
Department, Jamui.
9. The Circle Officer, Barhat, District Jamui
..... Respondents

=====

Appearance :

For the Petitioners : Mr. Rajesh Kumar Sinha, Advocate
For the State : Mr. Arvind Ujjwal, SC 25,
Marath Nath Roy, AC to SC 25
Upendra Pratap Singh, AC to SC 25

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 29-01-2015

I have heard learned counsel for the petitioners and the State.

Petitioners Claim that their 7 acres 90 decimals of land under Khesra Nos. 1447, 1555 and 1579 appertaining to Khata Nos. 130 and 316 of Mauza Kolhua, Anchal Barhat, district of Jamui is being utilized for the construction of road under Pradhan Mantri Sarak Rojgar Yojna for which they neither given any consent nor the land having been acquired in accordance with law.



It is well settled that the land of a person can be utilized by the State authority either after its acquisition in accordance with law or on the consent being given by that person. Reference is made in this regard to Article 300A of the Constitution of India which clearly lays down that persons cannot be deprived of property save by authority of law. Learned counsel submits that petitioners have never given any consent for acquisition of land.

In above view of the matter, this writ application is being disposed of with direction to the respondent no. 4, the Principal Secretary, Rural Works Department, Bihar, Patna to consider the case of the petitioners in view of the aforesaid observation and take a decision in accordance with law. If it comes to the conclusion that the land concerned belongs to the petitioners and is being utilized for construction of road without their consent or without its acquisition in accordance with law, he will take necessary steps for granting compensation to them as per law. In case the State does not require the land and is not ready to acquire the same in accordance with law then the construction should immediately be stopped and if already made then it should be removed and possession of the concerned land should be delivered in favour of the petitioners. That apart, the petitioners would also be entitled for compensation/damages for the period of illegal use of their land. Such decision should be taken by

the Principal Secretary concerned within three months from the date of filing of representation along with a copy of this order by the petitioners. If he comes to the conclusion that compensation is to be paid and the State is ready to acquire the land then the same should be done within a further period of six months in accordance with law.

It is also made clear that if the respondent no. 4 is of the opinion that some other department would be competent to take a decision then he would be at liberty to immediately refer the matter to the Principal Secretary of the concerned Department. Thereafter, a decision would be required to be taken by such Principal Secretary in view of the observation of this Court.

This writ application stands disposed of.

(Dr. Ravi Ranjan, J)

Spd/-

U			
---	--	--	--