

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15607 of 2010

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Ramashish Pandey S/o Late Kishun Pandey R/o Vill Sonbarsha, P.S.Kanti,
Distt-Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Rural Development Department Govt. of Bihar, Patna
3. The District Magistrate, Muzaffarpur, Distt- Muzaffarpur
4. The Circle Officer Circle-Kanti, Distt-Muzaffarpur

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate
For the Respondent/s : Mr. Lalit Kishore, PAAG

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

8 28-07-2015 The writ petition was filed praying for issuance of a writ in the nature of mandamus restraining the respondents from making any construction of public road on Plot Nos. 268, 269 and 270 of Khata No. 26 admeasuring 27 decimals situated in village Panapur in the district of Muzaffarpur which belongs to the petitioner.

Although a counter affidavit has been filed by the Circle Officer, Kanti, District-Muzaffarpur and in paragraph-4 thereof he has submitted that a village road already exists on these plots and the villagers are using it with the consent of the petitioner but the statement has been categorically denied by the petitioner in his rejoinder. An interlocutory application has been filed in the



present case bearing I.A. No. 4831 of 2015 and the petitioner has specifically stated in paragraph-4 that in compliance of the interim order of this Court passed on 17.9.2010, no construction of road has taken place.

Mr. Ajay Kumar Sharma, learned Assisting Counsel to PAAG produces a letter of the District Magistrate addressed to the Secretary, Rural Works Department, Government of Bihar which is dated 11.10.2011 in which he has informed that in compliance of the order passed by the High Court, the Executive Engineer has been directed to stay the construction of the road. By the same letter he has also recommended for construction of the road only upon payment of compensation to the land holders. Let the said letter be maintained on the record of the proceedings.

Mr. Ajay Kumar Sharma, learned State counsel further submits that since under the Pradhan Mantri Gramin Sadak Yojana there is no provision for payment of compensation rather the construction of the road under the Scheme is to be done with the consent of the land holder, hence there cannot be any payment of compensation to the petitioner.

Having heard learned counsel for the parties and considering the nature of dispute, there cannot be any justification that the raiyati land of the petitioner or for that matter any other

raiyati land can be taken over by the State for any purpose without following the due process of law for any such action would be in the teeth of the constitutional guarantee provided to a citizen of this country under Article 300A of the Constitution of India. Thus the attempt of the respondents in making a public road over the plot of the petitioner bearing Khesra No. 268, 269 and 270 of Khata No. 26 in village Panapur in the district of Muzaffarpur without his written consent cannot be permitted and the respondents are restrained from making any such construction until such time that they are either able to obtain a written consent from the petitioner on such terms and conditions that is agreeable to the petitioner or the lands in question are acquired by following the due process of law. The interim order passed on 17.9.2010 is confirmed. The writ petition is allowed.

Let a writ of mandamus issue accordingly.

(Jyoti Saran, J)

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