

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1633 of 2011

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1. Gokula Nand Mishra, S/O Late Kamala Kant Mishra
2. Akhilesh Kumar Mishra, S/O Late Chandra Nand Mishra
3. Mithilesh Kumar Mishra, S/O Late Chandra Nand Mishra
4. Bimilesh Mumar Mishra, S/O Late Chandra Nand Mishra
5. Shailendra Kumar Mishra, S/O Late Chandra Nand Mishra
6. Mini Mishra W/O Late Amrendra Kimar Mishra
All R/O Village -Kharia Basti, Ward No-10, P.S- Araria; Distt-Araria
(Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner,
Road Construction Department, Bihar, Patna.
2. The Principal Secretary cum Commissioner, Department of Revenue and
Land Reforms, Bihar, Patna.
3. The Director, Land Acquisition, Department of Revenue And Land
Reforms, Bihar , Patna.
4. The District Magistrate, Araria, Distrcet-Araria.
5. The Competent Officer cum District Land Acquisition Officer, Araria,
Collectorate, Araria.
6. The Managing Director, National Highway Authority of India, New
Delhi.
7. The Project Director, National Highway Authority, Araria At Purnea,
Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Singh
For the Respondent nos.1to5 : Mr. Apurva Kumar, AC to GA-11
For the Respondent nos.6&7 : Mr.Ranjan Kumar Singh
Mr.Sunil Kumar-II

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 27-08-2015 Heard the parties.

The grievance of the petitioners is that, though by the notification dated 13.07.2005 (Annexure-2) issued under Section 3A and 3D of The National Highways Act, 1956 (in short 'Act, 1956') only small fraction of land belonging to the petitioners bearing plot no.9623 area 0.010 Hectare was acquired for the purposes of widening and strengthening of National Highway No.57 and for which compensation has also been paid to the petitioners, but the officials/staff of the National Highways Authority of India have taken over possession of the entire area of

plot no.9623 total area being 72.100 decimals situate at Mauza-Basantpur. However, for the remaining area of land of aforesaid plot no. 9623 neither any acquisition proceeding was started under the Act, 1956 nor any amount of compensation has been paid to the petitioners.

Learned counsel appearing on behalf of the petitioners submits that the action of the respondent nos.6 and 7 and their officials/staff in taking over possession over the remaining area of land of plot no.9623 belonging to the petitioners are wholly illegal and cannot be sustained in law. He further submitted that, for redressal of their valid grievances, the petitioners filed an application before the “competent authority” under the meaning of Section 3(a) of the Act, 1956, but till date valid grievances of the petitioners have not been redressed. It is pointed out that the District Land Acquisition Officer, Araria has been authorized by the Central Government to act as “competent authority” under the meaning of the Act, 1956 for the area in question, who also wrote letter dated 25th March, 2011, as contained in Annexure-3 to the rejoinder affidavit filed on behalf of the petitioners, to the respondent no.7, yet no further action has been taken and valid grievances of the petitioners are not being redressed.

The matter has been contested by the respondents. Separate counter affidavits have been filed on behalf of the respondent nos.4 and 5 as also on behalf of the respondent nos.6 and 7, wherein it has been asserted that only 0.010 Hectare land of plot no.9623 belonging to the petitioners was acquired. The claim raised on behalf of the petitioners that the entire area of land belonging to them has been taken over by the respondents has been disputed. However, they have not stated anywhere that plea raised on behalf of the petitioners was finally disposed of by the

“competent authority” after giving an opportunity of hearing to all concerned.

In above view of the matter, the petitioners are directed to file a fresh comprehensive representation before the competent authority i.e. the District Land Acquisition Officer, Araria along with all supporting documents, raising all the pleas, which have been raised in the present writ petition within a period of one month from today. On filing of such representation, the competent authority i.e. the respondent no.5 shall examine and decide the claims of the petitioners by a reasoned and speaking order after giving an opportunity of hearing to all concerned including the respondent nos.6 and 7.

If on consideration of the materials and after getting the matter enquired into the respondent no.5 comes to a conclusion that the possession over the entire area of lands of plot no.9623, excepting the land which was acquired by the gazette notification, has been forcibly taken by the respondent no.6 and 7 or their representatives/staff, then he shall be obliged to pass an appropriate order for redressal of valid grievances of the petitioners. The entire exercise must be concluded within a period of three months from the date of filing of the representation by the petitioners before the respondent no.5.

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

Arvind/-

(Birendra Prasad Verma, J)

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