

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16128 of 2013

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Awadhesh Kumar Singh Son of Late Deep Narain Singh, Resident Of
Village + P.O. - Bhowa Deohri, Via - Naugachia, P.S. - Rupauli, District -
Purnia

.... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna.
2. The Principle Secretary, Department of Revenue and Land Reforms
(Land Acquisition), Government of Bihar, Patna.
3. The District Magistrate, Purnia.
4. The Circle Officer, Dhamdaha, Purnia.
5. The Executive Engineer, R.E.O. Office, Purnia.
6. The State of Bihar through Principal Secretary, Rural Works Department,
Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajiv Prashant, Advocate
For the Respondents : M/S Anshuman Singh,
Sriram Krishna ,
Rajiv Shekhar and
S.S. Pandey, Advocates

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

5 09-01-2015 Petitioner is permitted to implead the Principal
Secretary, Rural Works Department, Government of Bihar,
Patna as a respondent no.6.

I have heard the parties and have perused the records
of the case.

The petitioner seeks either payment of compensation
for his land of an area of about 4 acres and 49 decimals of
Plot Nos.1012, 1013, 1014, 1021 and 1022 appertaining to
Khata No.67 of Mauja Nathpur (Rupauli), District Purnea
upon which a road under Pradhan Mantri Gramin Sarak

Yojna has been constructed without its acquisition in accordance with law.

Counter affidavit has been filed on behalf of the respondent nos.3 and 5. By filing counter affidavit, respondent no.5 has tried to impress upon this Court that the executing agency being National Building Construction Corporation Ltd. has made error in preparation of D.P.R. which had led to utilization of the land of the petitioner. However, the aforesaid submission is of no help of the State but as it is well settled that the land of a person can be utilized for construction even for public purpose only upon either consent having been granted by such person or its acquisition in accordance with law. In case in hand, admittedly none of the above has been done.

In above view of the matter, this Court is constrained to hold that the aforesaid act by the respondents cannot be held in accordance with law and amounts to encroachment of a private land by the State authorities.

Accordingly, this writ application is being disposed of with a direction to the respondent no.6 to ascertain the extent of the area of the land of the petitioner which has been utilized in construction of road or its rung or in any other manner for any public purpose and, therefore, either



pay compensation in accordance with law or alternatively release the land in favour of the petitioner as no other option in law is available in the facts and circumstances of the case.

Let the petitioner approached the respondent no.6 by filing a representation along with a copy of this order and thereafter a decision in this regard should be taken by the Principal Secretary concerned within a period of six weeks. He would ascertain the factual aspects of the matter and take necessary steps in accordance with the direction contained in this order. If the State of Bihar decides to acquire the land then that should also be done expeditiously preferably within a period of nine months. However, if it decides to remove the construction and hand over the land concerned then it should be done within a period of four weeks from the date of such decision. In that case, the State authority will also ascertain the damage and pay compensation to the petitioner for utilizing his land for the period concerned without his consent or its acquisition.

(Dr. Ravi Ranjan, J)

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