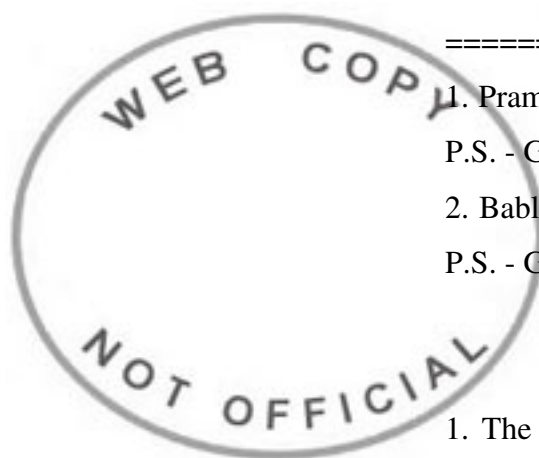


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13258 of 2014



- =====
1. Pramod Kumar Son of Surendra Singh Resident of Village - Mangrawa, P.S. - Guraru, District - Gaya.
 2. Bablu Singh Son of Late Suresh Singh Resident of Village - Mangrawa, P.S. - Guraru, District - Gaya.

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Chief Engineer, Rural Works Department, South Zone, Patna, Bihar.
4. The Commissioner, Magadh Pramandal, District - Gaya.
5. The District Magistrate, Gaya.
6. The Superintending Engineer, Rural Works Department, Works Division, Magadh Pramandal, Gaya, District - Gaya.
7. The Executive Engineer, Rural Works Department, Works Division, Tekari, District - Gaya.
8. The Circle Officer, Guraru, District - Gaya.
9. The Sub Divisional Officer, Tekari, District - Gaya.
10. The Superintendent of Police, Gaya, District - Gaya.
11. The Station House Officer, Guraru, P.S. - Guraru, District - Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Dinu Kumar, Shiw Kumar Prabhakar,
Rajesh Kumar Singh, Advocates

For the Respondent/s : Mr. Anjani Kumar, AAG 6, Sr. Advocate

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CORAM: HONOURBLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER
(Per: HONOURABLE THE CHIEF JUSTICE)

3 12-01-2015

The petitioners are the residents of village Mangrawa of Gaya district. It is stated that in the village there exists low lying place of fairly good length, called 'Ahar', where water accumulates during rainy season. It is stated that water accumulated therein is being used for irrigation of a considerable extent of land.

The grievance of the petitioners is that the respondents are trying to encroach part of the 'Ahar' for construction of road. The petitioners complain that such steps are impermissible in law and would reduce the area of the Ahar. They placed reliance on a judgment of the Hon'ble Supreme Court in the case of *Meghwal Samaj Shiksha Samiti vs. Lakh Singh & Ors. [(2011) 11 SCC 800]*.

We heard Mr. Dinu Kumar, learned counsel for the petitioners and Mr. Anjani Kumar for the respondents, examined the records and also perused the sketch maps and other materials placed before us.

The land in question is not noted in the revenue records as any source of irrigation. It is as good as any other government land, except that on account of it being low lying, water gets accumulated in rainy season. It may be true that the petitioners or other villagers are using the water so accumulated therein, for irrigating their fields. However, the petitioners cannot have any serious objection for laying a road to connect the village. Even from the materials placed before us, it is evident that that a small portion of Ahar is being used for the road.

The judgment of the Supreme Court is in relation to a pond. It is fairly well known that pond has a definite area and water remains therein during the entire year. It is meant for being

utilized and no portion of it can be permitted to be put for any use other than as a source of irrigation, whereas the low lying area where the water gets accumulated only in rainy season, cannot be treated as pond; much less, a water body. This much, however can be said that the free flow from the Ahar cannot be obstructed in the construction of road.

We accordingly dispose of the writ petition.

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

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