

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21426 of 2014

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1. Gangu Bahardar S/o Ugan Bahardar
2. Manoj Bahardar S/o Late Baldeo Bahardar
3. Pancanand Bahardar S/o Late Sonai Bahardar
4. Most. Sukari Devi W/o Late Deo lal Bahardar
5. Makru Bahardar S/o Late kailu Bahardar
6. Poshan Bahardar S/o Late Phohi Bahardar
7. Sanjay Bahardar S/o Late Baldeo Bahardar
8. Most. Kari Devi W/o Late Baldeo Bahardar
9. Dhelu Bahardar S/o Deo Lal Bahardar
10. Shyam lal Bahardar S/o Late Phagu Bahardar
11. Kaleswari Devi W/o Late Phagu Bahardar
12. Mannu Bahardar S/o Ugan Bahardar
13. Dhanilal Bahardar S/o Ugan Bahardar
14. Sunita Devi W/o Late Baldeo Bahardar
All are Resident of Village Belwa Baghela Tola, Post Office Araria, P.S.
Araria, District Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Engineer-in-Chief (North), Government of Bihar, Water Resource Department, Sinchai Bhawan, Patna, Bihar.
3. The Chief Engineer, Water Resource Department, Purnea.
4. The Superintending Engineer, Drainage and Investigation Division, Water Resource Department, Purnea.
5. The Executive Engineer, Drainage and Investigation Division, Water Resource Department, Purnea.
6. The Assistant Engineer, Drainage and Investigation Division, Water Resource Department, Purnea.
7. The District Magistrate, Araria.
8. The Executive Engineer, Flood Central Project and Monitoring Anchal, Sinchai Bhawan, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Singh
Mr.Kamal Kishor Singh
For the Respondent/s : Mr. Nagendra Sharma, AC to SC-29

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 18-08-2015

Heard the parties.

The grievance of the petitioners, 14 in number, is that though the lands belonging to them, fully described in paragraph nos.4 and 5 of the writ petition, were taken by the State of Bihar and its functionaries for the purposes of construction of Pilot

Channel in the district of Araria, but till date compensation amount has not been paid to them.

Learned counsel appearing on behalf of the petitioners submits that without starting land acquisition proceeding the respondent authorities could not have taken over possession over the lands belonging to the petitioners and could not have started construction work over the same. Therefore, according to him, the entire action of the respondents is illegal. However, it is pleaded that the petitioners shall be satisfied, if the adequate compensation is paid to them.

The matter has been contested by the respondents by filing a counter affidavit on behalf of the respondent no.5. In the aforesaid counter affidavit, it has been stated in paragraph 4 that the construction work of Pilot Channel near Belwa village in the district of Araria over Parman River has already been completed. It has further been stated that the steps have been taken for payment of compensation to the land owners on whose lands Pilot Channel near Belwa village has already been constructed. However, it has been admitted that the compensation amount has not been paid to the petitioners for the lands over which the possession has been taken by the respondent authorities.

This Court is of the opinion that the action of the respondent authorities in taking possession over the lands belonging to the petitioners without starting any land acquisition proceeding cannot be held to be justified and, on that ground alone, the whole action of the respondents could have been set at naught. But, this Court finds that the petitioners' basic prayer in the writ petition is for payment of adequate compensation to them for the lands over which possession has been taken and construction work has been completed. This fact is reflected from the reliefs indicated in paragraph 1 of the writ petition.

Furthermore, the respondents have shown their willingness to pay adequate compensation to the petitioners for the lands over which possession has been taken and construction work was started and ultimately completed.

Taking into consideration the aforesaid aspects, the respondent District Magistrate-cum-Collector, Araria is hereby directed to look into the grievances of the writ petitioners and after examining the matter, if he comes to a conclusion that possession over the lands belonging to the petitioners were taken and construction work has been completed, then he shall take all appropriate steps for payment of adequate compensation to the petitioners within a maximum period of three months from the date of appearance of the petitioners before him with a certified copy of the present order. The petitioners shall also be obliged to produce relevant documents in support of their claims of title over the lands claimed by them. If the funds have not been released for the purposes of payment of compensation to the land owners including the petitioners, then in that case also, the respondent District Collector, Araria either himself or any other competent authority shall take all actions in promptitude so that adequate fund is released at the earliest possible time and adequate compensation is paid to the petitioners and/or similarly situated other persons.

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

Arvind/-

(Birendra Prasad Verma, J)

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