

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2770 of 2012

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1. Ashok Kumar Singh S/O Ram Chandra Singh R/O Village- Dhanhara, P.S.- Sheyampur Bhatahan, District- Sheohar
 2. Bijli Singh S/O Late Dharkhan Singh R/O Village- Dhanhara, P.S.- Sheyampur Bhatahan, District- Sheohar

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Development Department, Govt. of Bihar, Patna
2. The District Magistrate, Sheohar
3. The Sub Divisional Officer, Sheohar, District- Sheohar
4. The Anchal Adhikari, Dumri Katsari Anchal, District- Sheohar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Anisur Rahman, Advocate
For the Respondent/s : Mr. Mani Kant Mishra, GP 25
Mr. Gopi Jha, AC to GP 25

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 23-09-2015

Heard the parties.

2. The petitioners have filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondents for payment of adequate compensation to them for their raiyati lands over which public road was constructed without initiating any land acquisition proceeding by the competent authority.

3. Learned counsel appearing on behalf of the petitioners submits that while constructing public road from village Dumri to Jahangirpur in the district of Sheohar under “Mukhiya- Mantri Sadak Yojna” in the year 2007, unlawful/forceful possession was taken by the respondent authorities over 11½ decimal of khatiyani lands belonging to them, the details of which have been mentioned in paragraph 4 of the writ petition. It is also pointed out that for redressal of their valid grievances, precisely for payment of adequate

compensation to the petitioners for the lands over which public road was unauthorisedly constructed, representations were filed before the respondent District Collector, Sheohar as also other authorities, but till date their grievances have not been redressed and adequate compensation has not been paid to them.

4. The matter has been contested by the respondents by filing a counter affidavit on behalf of the respondent no.1 which has been sworn by the Assistant Engineer, Rural Works Division, Sheohar. Learned GP 25, appearing on behalf of the respondents, submitted that, in fact, pucca road was to be constructed over already existing brick edge soling road, therefore, no land acquisition proceeding was required to be initiated. It is further submitted that when road was being constructed, no objection was raised by the petitioners, but only after completion of construction of road, the claims are being raised on behalf of the petitioners and they filed a petition before the respondent District Collector in the year 2008. He next submitted that if the petitioners have any valid grievance, they should approach the competent authority, whereafter their claim(s) shall be considered in accordance with law. However, learned GP 25 has not been able to dispute the averments made in paragraphs 16 and 17 of the counter affidavit filed on behalf of the respondent nos. 1, wherein claim of the petitioners has practically been admitted.

5. After having heard the parties and taking into consideration the materials available on the record including the averments made in paragraphs 16 and 17 of the counter affidavit filed on behalf of the respondent no.1, this Court is of the opinion that the interest of justice shall be subserved if the petitioners are granted liberty to file a comprehensive representation before the respondent District Magistrate cum Collector, Sheohar with all supporting

documents, raising all the pleas which have been raised in the present writ petition particularly for payment of adequate compensation for their lands over which a public road is said to have been constructed. It is ordered accordingly.

6. If such a comprehensive representation is filed on behalf of the petitioners within a period of one month from today with a certified copy of the present order, then the respondent District Collector cum Magistrate, Sheohar shall get the matter enquired into afresh and if he comes to the conclusion that over the raiyati lands belonging to the petitioners a public road has been constructed unauthorisedly, then in that case, he shall either put back the petitioners in possession on their raiyati lands over which a public road has been constructed, or alternatively he shall pay adequate compensation to the petitioners for their raiyati lands over which a public road has been constructed. The entire exercise must be completed by the respondent District Magistrate cum Collector, Sheohar within a maximum period of three months from the date of filing of such representation by the petitioners in the manner indicated above. However, before passing any final order, he shall give an opportunity of hearing to the petitioners, and if any enquiry is conducted then that must be conducted in presence of the petitioners, besides others.

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

(Birendra Prasad Verma, J)

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