

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2414 of 2015

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Nityanand Sharma son of Sharda Singh, resident of village-Indrapur, P.S.-
Makhdumpur, District-Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate Jehanabad.
2. The Executive Engineer Road Construction Department Jehanabad.
3. The Circle Officer, Makhdumpur Jehanabad.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Mahesh Narain Parbat, Sr. Advocate
Mr. Shankar Kumar, Advocate
For the Respondent/s : Mr. Pandey S. Sahay, SC-31
Mr. Madhukar Mishra, A.C. to SC-31

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 09-04-2015 The grievance of the petitioner is that in the process of widening of the public road running between Makhdumpur to Pai Bigha in the district of Jehanabad, the raiyati land of the petitioner bearing Khata No. 146, Plot No. 3282 to the extent of 8 decimals, Khata No. 176, Plot No. 3289 to the extent of 58 decimals, Khata No. 176, Plot No. 4694 to the extent of 14 decimals and Khata No. 172 Plot No. 3935 to the extent of 13 decimals has been encroached by the authorities of the Road Construction Department.

He submits that neither any written consent has been obtained by the petitioner and on the contrary despite the petitioner objecting to the Contractor on the constructions, he has

forcibly constructed the road.

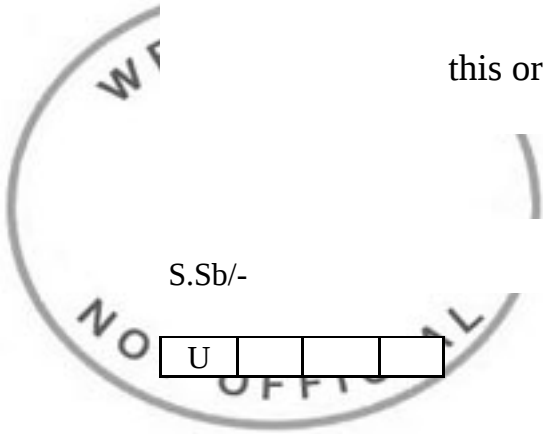
The prayer made in this writ petition is that either the respondents should pay compensation for the encroachment on his raiyati plot or they should restore it to its original position.

Mr. Mahesh Narain Parbat, learned senior counsel appearing for the petitioner with reference to a representation addressed to the District Magistrate, Jehanabad placed at Annexure-1 and the Executive Engineer, Road Construction Department placed at Annexure-2 submits that although the attention of the respondent no. 3 was drawn in January, 2015 itself but they have taken no steps and resultantly the forcible construction of the metal road stands completed.

In my opinion, the grievance of the petitioner is just and the State cannot encroach upon the raiyati land of the petitioner without observing the due process of law for it would be violative of Article-300A of the Constitution of India.

Having heard learned counsel for the parties and taking note of the nature of grievance, this writ petition is disposed of with a liberty to the petitioner to file a fresh representation before the District Magistrate, Jehanabad who shall consider the grievance of the petitioner and after getting an enquiry made as to the encroachment alleged by the petitioner pass appropriate orders in the light of the claim made by the petitioner i.e. payment

of compensation or restoration of the property to its original status. Such order is to be passed by the District Magistrate within six weeks of the date of receipt / production of a copy of this order after giving opportunity of hearing to the petitioner.



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(Jyoti Saran, J)