

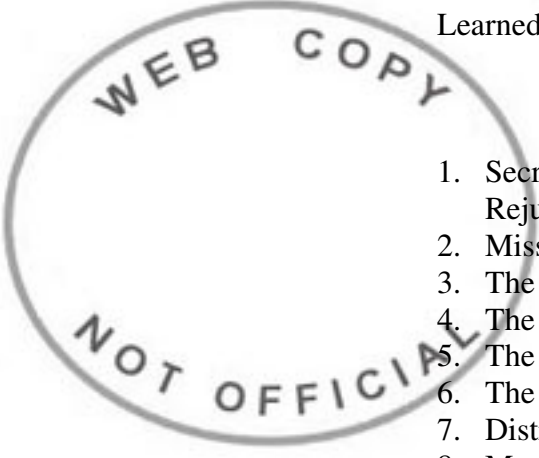
IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3117 of 2015

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Learned District & Sessions Judge, Patna

.... Petitioner

Versus

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1. Secretary, Ministry of Water Resources, River Development and Ganga Rejuvenation
 2. Mission Director, National Mission for Clean Ganga
 3. The Regional Head, State Level Programme Management Group
 4. The Regional head of the Inland Water Transport
 5. The Principal Secretary, Irrigation Department, Govt. of Bihar
 6. The Principal Secretary, Mining Department, Government of Bihar
 7. District Magistrate, Patna
 8. Municipal Commissioner, Patna Municipal Corporation, Patna
 9. Dilip Kumar Singh, son of Late Ram Bali Singh, Village- Rajapur, Chainpur, Gate No. 31, P.S. S.K. Puri, District- Patna
 - (10) (1) Praveen Kumar Singh
 - (2) Prasun Kumar Singh Both sons of Late Shripati Singh
 - (3) Pradeep Kumar Singh, Son of Late Raj Nandan Singh, All Resident of Village- Kurji, P.S. Digha, P.O. Sadaquat Ashram, Dist.- Patna
 11. Subhash Chandra Bose, son of Late Balkishun Rai, Resident of village Mainpura, P.S. Patliputra, District- Patna
 12. Sanjay Singh, son of Late Inder Prasad Singh, Resident of village Makhdumpur, P.O. Digha Ghat, P.S. Digha Ghat, District- Patna
 - (13) (1) Sunil Kumar, S/o Late Lakhan Singh, resident of Mohalla- Makhdumpur, P.O. Digha Ghat, P.S.- Digha, District- Patna
 - (2) Raj Ballabh Singh, S/o Late Lakhan Singh, Resident of Mohalla- Makhdumpur, P.O. Digha Ghat, P.S. Digha Ghat, District- Patna
 - (3) Ram Chandra Yadav, S/o Late Bhagwan Yadav, resident of village- Jatdumri, P.O.- Jatdumri, P.S.- Punpun, District- Patna
 - (4) Ram Jatan Singh, S/o Ram Babu Singh, resident of village- Ram Bagh, P.O.- Kachchi Dargah, P.S.- Didarganj, District- Patna
 - (5) Soni Devi, W/o Prabhunath Singh, resident of Mohalla- Rajapur Pul, Parnami Mandir, P.O.- G.P.O., P.S.- Krishnapuri, District- Patna
 - (6) Savita Devi, W/o- Prabhu Rai, resident of Mohalla- Rajapur Pul, Parnami Mandir, P.O.- G.P.O. S.S.- Krishnapuri, District- Patna.
 - (7) Chandradeo Prasad, S/o Late Mahadeo Prasad
 - (8) Brahmdeo Prasad @ Gandhi Rai, S/o Late Mahadeo Prasad
 - (9) Bishundeo Prasad @ Ambika Prasad, S/o Late Mahadeo Prasad
 - (10) Ashok Kumar, S/o Late Sukhdeo Singh.
 - Intervener Respondents No. 7 to 11 are resident of village- Khilchipur, Gate No. 86, Makhdumpur, P.O.- Digha, P.S.- Digha, District- Patna
 - (11.) Atma Charan Rai, S/o- Late Haricharan Rai, resident of village- Kurjee, P.O.- Sadaquat Ashram, P.S.- Digha, District- Patna
 - (12.) Brijnandan Prasad Singh, S/o late Ram Lakhan Singh, resident of Mohalla- Bajitpur, P.O. Digha Ghat, P.S.- Digha, District- Patna
 - (13.) Shyam Nandan Prasad Singh, S/o- Late Ram Lakhan Singh, resident of Mohalla- Bajitpur, P.O.- Digha Ghat, P.S.- Digha, District- Patna
 - (14.) Raj Kumar Rai, Son of Late Fudi Rai, Resident of Mohalla- Chainpura, Mainpura Gali No. 33, P.S. Sri Krishnapuri, District- Patna

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Ranjan, Advocate
For the Respondents	:	Mr. Lalit Kishore, PAAG-Bihar State Mr. Bishwa Bibhuti Kumar Singh, Advocate
For the Respondent No.6	:	Mr. D.K. Sinha, Sr. Advocate, Mines Mr. Rajendra Prasad, Spl. P.P., Mines
For the U.O.I.	:	Mr. Sanjay Kumar, A.S.G.
For the I.W.A.I.	:	Dr. Anshuman, Advocate
For the Intervenor Respondent	:	Mr. S.P.Srivastava, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

11 07-12-2015

A letter addressed to this Court's, dated 19.02.2015, written by learned District and Sessions Judge, Patna, became the basis for registration of the present case in the nature of Public Interest Litigation under Article 226 of the Constitution of India. It appears from the said letter that concern was expressed over shifting of the course of the river Ganges alongside Patna town. This Court, noticing the seriousness of the matter, had passed following order on 03.03.2015:-

“The letter addressed by the District Judge, Patna, has constituted the basis for this Public Interest Litigation reflecting an alarming situation. River Ganga with its confluence of rivers Sone and Gandak near Patna was flowing abutting the city. For

the first few years the course of the river has either changed or was made to change resulting in a situation where the buildings that were abutting the great river and now made to face the drainage channel. There was negligence on the part of the authorities that were required to maintain and conserve the river.

Sri Lalit Kishore, learned Principal Additional Advocate General seeks time to file a comprehensive counter affidavit in this regard. Learned counsel appearing for respondent nos. 1 to 4 takes notice with a view to ensure that situation does not deteriorate further.

Detailed steps for a permanent solution as regards the issue that is projected in the letter can be formulated after the respondents come forward with their counter affidavits. However, the deterioration which has taken place cannot brook any further delay.

Pending further orders, we direct that-

- (a) The District Magistrate, Patna, and the Commissioner of Patna Municipal Corporation shall identify the banks of Patna City wherever the river has changed the course.

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- (b) On its part, the Department of Mining shall permit the removal of sand or earth at the places where there is accumulation, abutting the erstwhile banks and mining of sand in the middle of the river through deep river mining shall be stopped.
- (c) The Department of Inland Water Transport of the Central Government and the Department of Water Recourses of the State of Bihar shall take up immediate steps for digging a channel of at least 50 meters width along the bank wherever the river has changed its course between Digha and Patna Civil Court, and ensure that water flows through the canal uninterruptedly.
- (d) The concerned Departments of the State and Central Government shall consider the feasibility of operating the passenger-boats as a regular means of transport from one place to another of Patna City or to other places from Patna.
- (e) The Patna Municipal Corporation shall ensure that no drain water is fallen to the river near the Civil Courts premises.

Post after four weeks.”

The action taken by the respondents, in compliance

of the said order, dated 03.03.2015, passed by this Court, is evident from subsequent order passed by this Court on 29.07.2015, which reads thus:-

“It is brought to the notice of the Court that not only the digging of the channel, as directed by this Court, has been completed, but also water in its full capacity is flowing. We place on record our appreciation for the agencies of the Government in general, and the officers involved in particular, for the effort made by them.

We strictly speaking, the writ petition deserves to be closed. However, with the sole object of ensuring that steps are taken for regular maintenance of the channel, we keep it pending. During this rainy season itself, the 5th respondent-the Regional Head of the Inland Water Transport, shall arrange for dredging of the channel to make it worth for navigation.

We further direct that no structure whatever shall be permitted in and around the channel up to the bank, and if any structures have been illegally made, the District Magistrate shall verify the title, and only thereafter, either

regularization or grant of permission shall be given by the Municipal Corporation.

Post after six weeks.

Remove from the caption 'for judgment.'

Learned counsel, appearing on behalf of the respondent-State of Bihar, has submitted that the purpose of the present proceeding has been accomplished inasmuch as this Court's order, dated 03.03.2015, has been implemented and is being carried out on regular basis.

Certain Interlocutory Applications, however, have been filed, which have come to be registered as I.A. Nos. 4289 of 2015, 5098 of 2015 and 6037 of 2015 and I.A.Nos. 4566 of 2015, 5354 of 2015, 5779 of 2015, 6014 of 2015, 7548 of 2015, and 7552 of 2015, whereby the applicants have sought for seeking their impleadment as party respondents on the ground that without following the mandatory provisions of law, the lands, which they owned, are being put to use by the State-respondents in order to implement this Court's order. They have placed reliance upon various documents in support of their stand that they are the owners of the land, which the State Government is utilizing for



different purposes, such as, construction of water treatment plant in compliance of this Court's order, dated 03.03.2015. Learned counsel for the some of the intervenor-respondents have submitted that without any authority of law the Mining Department of the Government of Bihar is permitting extraction of sand from their private land. This Court, in the present proceeding, is not required to comment upon, or make any observation on, the claim of the intervenor-respondents as regards their title to the respective lands.

Our attention has been drawn, however, on their behalf, to an order, dated 05.05.2015, whereby a Division Bench of this Court had specifically directed that the Collector shall not entertain any claim of ownership of the land in the river bed nor could such persons claiming right of ownership, raise any grievance before the Civil Court.

Since we are closing the present proceeding by the present order, we consider it proper, in the interest of justice, to make it clear that the intervenor-respondents will have liberty to approach in accordance with law, Civil Court of competent jurisdiction for adjudication of dispute over title, if any, if so advised.

The order, dated 05.05.2015, stands modified only to the extent, whereby embargo was placed upon the persons, like the

intervenor-respondents, from raising their dispute before the Civil Court.

This disposes of this application.

Interlocutory Application Nos. 4289 of 2015, 5098 of 2015 and 6037 of 2015 and I.A.Nos. 4566 of 2015, 5354 of 2015, 5779 of 2015, 6014 of 2015, 7548 of 2015, and 7552 of 2015 shall also stand disposed of.

(I.A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

Vats/-

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