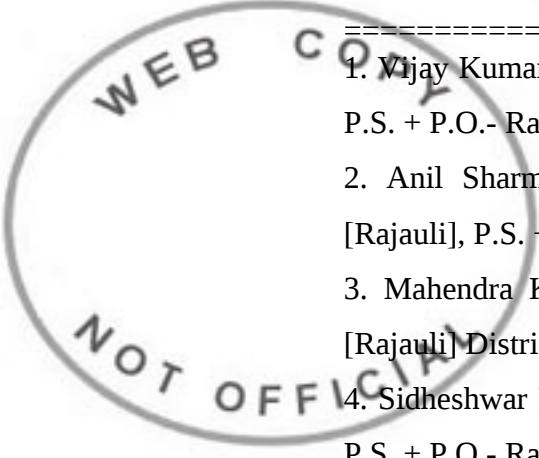


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6146 of 2013

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1. Vijay Kumar Son Of Late Babu Lal, Resident Of Village- Takua Tar [Rajauli], P.S. + P.O.- Rajauli, District- Nawada.
 2. Anil Sharma Son Of Sita Ram Sharma, Resident Of Village- Takua Tar [Rajauli], P.S. + P.O.- Rajauli, District- Nawada.
 3. Mahendra Kumar Son of Late Satish Yadav, Resident Of Village- Mahsaie [Rajauli] District- Nawada
 4. Sidheshwar Prasad Son Of Lalo Yadav, Resident Of Village- Chautha [Rajauli] P.S. + P.O.- Rajauli, District- Nawada.
 5. Mairaj Khan Son Of Md. Ahmad Hussain, Resident Of Village- Mahsai Rajauli, P.S. + P.O.- Rajauli, District- Nawada.
 6. Naveen Prasad Son Of Bachan Prasad, Resident Of Village- Dati Tila, Rajauli, P.S. + P.O.- Rajauli, District- Nawada.
 7. Gopal Pandey Son Of Chandrika Pandey, Resident Of Village- Uper Tanda Rajauli, P.S. + P.O.- Rajauli, District- Nawada.
 8. Jai Prakash Kumar Son Of Late Kishun Kumar, Resident Of Village- Takua Tar [Rajauli], P.S. + P.O.- Rajauli, District- Nawada.
 9. Pawan Kumar Pandey Son Of Late Ratan Pandey, Resident Of Village- Takua Tar [Rajauli], P.S. + P.O.- Rajauli, District- Nawada.
 10. Abhay Kumar Son Of Hari Rajbanshi, Resident Of Village- Takua Tar [Rajauli], P.S. + P.O.- Rajauli, District- Nawada.
 11. Santosh Paswan Son Of Doman Paswan, Resident Of Village- Takua Tar [Rajauli], P.S. + P.O.- Rajauli, District- Nawada
 12. Shankar Verma Son Of Raj Kumar Verma, Resident Of Village- Takua Tar [Rajauli], P.S. + P.O.- Rajauli, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Nawada.
3. The Deputy Development Commissioner Cum Executive Officer District Board, Nawada.
4. The District Engineer, District Board, Nawada.
5. The Sub-Divisional Officer, Rajauli, Nawada.

6. The Circle Officer, Rajauli, Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhakar Singh, Advocate

Mr. Rakesh Mohan Singh, Advocate

For the Respondent Nos.1 to 3 : Mr. Himanshu Kumar, A.C. to G.A.1

For the Respondent Nos. 4 & 5: Mr. Nikesh Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 19-01-2015

The petitioners claim to be residents of Rajauli Village in Nawada District. They filed this writ petition by way of public interest litigation raising objection to the construction of shops proposed by the Zila Parishad, i.e. respondent nos.4 and 5. The petitioners contend that National Highway No.31 used to pass through the middle of the village and in the recent past, by-pass road has been provided. It is stated that the old road which was vested in the erstwhile District Board has since been transferred to the State of Bihar and though the road is being used by the local population, shops are being constructed by encroaching upon it.

On behalf of the respondent nos.4 and 5, a detailed

counter affidavit as well as supplementary counter affidavit are filed. They submit that the old road of N.H.31 was originally 18 feet wide and the shops are being constructed strictly in accordance with law, that too by leaving set back of 35 feet on either side. The sketch map also depicts the same which is enclosed.

Heard Sri Prabhakar Singh, learned counsel for the petitioners and Sri Himanshu Kumar Akela, learned A.C. to G.A.-1 for the State and Sri Nikesh Kumar, learned counsel for the respondent nos.4 and 5.

The respondents do not deny that the construction of the shops is being undertaken on both sides of the road. It is stated that the shops are constructed for dual purposes, i.e. for providing livelihood to unemployed persons and to augment resources for the local bodies. Whatever be the object, the construction cannot be permitted if it is contrary to any by-laws or if it results in encroachment into the road or its margins. The record placed before us discloses that N.H.31, which was passing through the village, has virtually become dysfunctional on account of by-pass road being constructed and that the Zila Parishad wants to put the road to proper use. The photographs as well as the sketch filed by the respondents disclose that the set back of 35 ft on either side of the road has been given. It means that even if the road is to be widened

to the level of four lanes, there would not be any shortage of place.
When such is the state of affair, the petitioner cannot have the plausible objection for the construction.

We do not find any merit in this writ petition, which is, accordingly dismissed.

Interlocutory application, if any, shall stand disposed of.
There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

Sunil/-

(Gopal Prasad, J)

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