

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23169 of 2011

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1. Hafizur Rehman son of Md. Haneef Rehman, resident of Sharifaganj Kothi, Madhunanbi, P.S. Khajanchi Haat, District- Purnea at present resident of Mauza- Madhubani, P.S. Khajanchi Haat, District - Prunea through Naresh Prasad Gupta, son of Shri Madan Sah, resident of Gokul Singh, resident of Thakurbari , Bhatta Bazar, Prunea, District Purnea a registered Power of Attorney Holder
 2. Zamilu Rehman son of Waks Choudhari, resident of Sharifaganj Kothi, Madhunanbi, P.S. Khajanchi Haat, District- Purnea at Present resident of Mauza- Madhubani, P.S. Khajanchi Haat, District - Prunea through Naresh Prasad Gupta, son of Shri Madan Sah, resident of Gokul Singh, resident of Thakurbari , Bhatta Bazar, Prunea, District Purnea a registered Power of Attorney Holder
 3. Safikur Rehman son of Waks Choudhari, resident of Sharifaganj Kothi, Madhunanbi, P.S. Khajanchi Haat, District- Purnea at Present resident of Mauza- Madhubani, P.S. Khajanchi Haat, District - Prunea through Naresh Prasad Gupta, son of Shri Madan Sah, resident of Gokul Singh, resident of Thakurbari , Bhatta Bazar, Prunea, District Purnea a registered Power of Attorney Holder
 4. Gulam Fazle Rehman son of Waks Choudhari, resident of Sharifaganj Kothi, Madhunanbi, P.S. Khajanchi Haat, District- Purnea at present resident of Mauza- Madhubani, P.S. Khajanchi Haat, District - Prunea through Naresh Prasad Gupta, son of Shri Madan Sah, resident of Gokul Singh, resident of Thakurbari , Bhatta Bazar, Prunea, District Purnea a registered Power of Attorney Holder
 5. Bibi Fatima Khatoon daughter of Waks Choudhari, resident of Sharifaganj Kothi, Madhunanbi, P.S. Khajanchi Haat, District- Purnea at present resident of Mauza- Madhubani, P.S. Khajanchi Haat, District - Prunea through Naresh Prasad Gupta, son of Shri Madan Sah, resident of Gokul Singh, resident of Thakurbari , Bhatta Bazar, Prunea, District Purnea a registered Power of Attorney Holder
 6. Bibi Kaniz Amla Khatoon daughter of Waks Chaudhari, resident of Sharifaganj Kothi, Madhunanbi, P.S. Khajanchi Haat, District- Purnea at present resident of Mauza- Madhubani, P.S. Khajanchi Haat, District - Prunea through Naresh Prasad Gupta, son of Shri Madan Sah, resident of Gokul Singh, resident of Thakurbari , Bhatta Bazar, Prunea, District Purnea a registered Power of Attorney Holder

.... Petitioner/s

Versus

1. The Bihar State Housing Board, 6 Sardar Patel Marg, Patna, through Its Managing Director
2. Managing Director, Bihar State Housing Board, 6-Sardar Patel Marg, Patna
3. The Manager, Estate, Bihar State Housing Board, 6-Sardar Patel Marg, Patna
4. Special Land Acquisition Officer, Bihar State Housing Board, 6-Sardar Patel Marg, Patna
5. Chief Engineer, Bihar State Housing Board, Bhagalpur
6. Executive Engineer, Bihar State Housing Board, Exchange Bhagalpur, District - Bhagalpur

7. District Land Acquisition Officer, Purnea, District Purnea
8. Anchal Adhikari, Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Upendra Prasad, Advocate
Mrs. Veena Kumari Jaiswal, Advocate
For the Respondent Nos. 1 to 6 : Mr. Anshuman Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 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 restraining them from taking possession over an area of lands measuring 2.91 acres situate at Mauza Madhubani in the district of Purnea, fully detailed in paragraph 1 of the writ petition itself.

3. Learned counsel appearing on behalf of the petitioners submits that the petitioners or/and their ancestors were khatiyani raiyats of an area of lands measuring 55.10 acres, out of which 52.20 acres were acquired for the respondent Bihar State Housing Board by the respondent District Land Acquisition Officer, Purnea in the year 1974. It is further contended that after the aforesaid acquisition, 2.91 acres of land still remained in possession of the petitioners, but the respondents Bihar State Housing Board and its functionaries are creating obstruction in possession of the petitioners over the said area of land. Therefore, it is pleaded that appropriate direction may be issued to the respondents not to disturb possession of the petitioners over the aforesaid 2.91 acres of land.

4. The matter has been contested by the respondents Bihar State Housing Board and its functionaries by filing a counter



affidavit on behalf of the respondent nos. 1 to 6. Learned counsel appearing on behalf of the respondent nos. 1 to 6 submits that it is true that only 52.20 acres of land were acquired for the use of Bihar State Housing Board and the respondent nos. 1 to 6 are not claiming their right, title and possession over the remaining area of lands. According to him, the dispute raised by the petitioners are essentially a dispute of boundary and this can effectively be decided by the “competent authority” under the provisions of The Bihar Land Disputes Resolution Act, 2009 (in short, “Act, 2009”). It is further pleaded that even with respect to raiyati lands if there is some dispute of boundary, the same can be resolved under the provisions of Section 4 of the Act, 2009.

5. After having heard the parties and on consideration of the materials available on the records, this Court finds that so far as the right, title and possession of the parties are concerned, there is no much controversy. Admittedly, the petitioners and/or their ancestors were the khatiyani raiyats with respect to 55.10 acres of land, out of which only 52.20 acres of land were acquired under the provisions of The Land Acquisition Act, 1894 (in short, “the Act, 1894”). Therefore, the respondent nos. 1 to 6 cannot claim any area of land beyond 52.20 acres which were acquired under the provisions of the Act, 1894 and over which possession was taken, as a result of which, same vested in the State of Bihar free from all encumbrances in terms of Section 16 of the Act, 1894 and thereafter same were transferred to the Bihar State Housing Board. Similarly, the petitioners cannot claim their right, title and possession beyond 2.91 acres of land, which they claim to have remained with them after aforesaid acquisition. Hence, if there is any dispute regarding possession beyond the permissible area of

lands belonging to the parties, then the matter can be resolved under the provisions of the Act, 2009 by filing an appropriate petition under the provision of Section 4 of the Act, 2009.

6. In above view of the matter, the present writ petition is disposed of with a liberty to the petitioners to approach the “competent authority” under the provisions of the Act, 2009 for demarcation of the boundary of the lands under dispute. It is expected that if any such petition is filed, the same shall be considered and decided in accordance with law.

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

(Birendra Prasad Verma, J)

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