

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15433 of 2014

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Nageshwar Mandal, son of Late Baudan Mandal, resident of Village-
Mahisauri, P.O. Jamui, P.S. Jamui, District-Jamui

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Disaster Management, Govt. of Bihar, Patna.
3. The District Magistrate, Jamui, District-Jamui.
4. The Circle Officer, Jamui, District-Jamui.
5. The Deputy General Manager, Bihar State Building Construction Corporation Ltd. at Munger, District-Munger.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ranjan Kumar Jha, Advocate
For the State : Mr. Md. Anis Akhtar, A.C. to G.A.-1

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 11-05-2015 The petitioner is a resident of Jamui town. He states that in Mahisauri Village of Jamui town, there exists water body (*Aahar*) in an area of 4.31 Acres in Thana No.29, Tauzi No.345, Khata No.130, Khesara 653. His grievance is that the respondents are constructing a godown in the middle of water body and the same would affect not only the interest of farmers, who used to get the water for irrigation, but also to the local residents.

The respondents filed detailed counter affidavit. It is stated that *Aahar* no doubt exists, but on account of the fact that it has become part of the Municipality and houses are

constructed surrounding the water body, godown over an area of 100 ft. is being constructed for public purpose.

Heard Shri Ranjan Kumar Jha, learned counsel for the petitioner and Shri Anis Akhtar, learned Assistant Counsel to Government Advocate No.1 for the State.

The effort of the petitioner about the preservation of water body is laudable. Even though the water body has become part of Municipality and is surrounded by houses, maintenance for the same is essential for preserving the ground water levels and to provide open space. Obviously because of the acute necessity, godown is being constructed in the part of water body. Though such act cannot be permitted, we do not restrain the respondents to stop the construction of godown at this stage. At the same time, the respondents are under obligation to preserve remaining part of the water body.

Hence, this writ petition is disposed of directing that (a) the construction of godown may go on. However, the respondent shall ensure that the remaining part of the *Aahar* is preserved and maintained in such a way that the water is stored during the lean seasons; (b) if construction of the godown separates the *Aahar* into two parts, they shall ensure that both of them are connected through pipeline or water channel and

(c) in future, no part of the water body, i.e., *Aahar* shall be utilized for residential or other purposes nor anything shall be dumped in it.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

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