

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2564 of 2013

Parmanand Pathak S/O Sri Shiveshwar Pathak R/O Vill-Choraut, P.S.-Pupari,
Distt-Sitamarhi

.... Petitioner/s

Versus

1. The Union Of India Through The Secretary, Ministry Of Rural Development, Government Of India, New Delhi
2. The Secretary, Ministry Of Rural Development, Government Of India, New Delhi
3. The National Hydro Electric Power Corporation Ltd, Sector-13, Faridabad, Haryana through Its Chairman-Cum-Managing Director
4. The Chairman-Cum-Managing Director, National Hydro Electric Power Corporation Ltd., Sector-13, Faridabad, Haryana
5. The Collector, Sitamarhi
6. The Chief Engineer(Civil) In charge, Bihar Rural Roads Project, Vidyut Bhavan-Ii, Bailey Road,Patna-800021
7. The Executive Director, Bihar Rural Roads Project, NHPC, Vidyut Bhawan, Bailey Road, Patna-800021

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. VAIDEHI RAMAN PRASAD SINGH
For the Respondent no.1 Mr. Kanak Verma
For the NHPC Mr. Rajeshwa Prasad
For the State Mr. Pankaj Kr. Singh AC to SC 22

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 26-11-2015

Heard Mr. VRP Singh for the petitioner, Mr. Rajeshwar Prasad for the National Hydro Electric Power Corporation Ltd. (for short ‘the NHEPC’) and the counsel for the State.

Counter affidavits have been filed by both the respondents. Reply thereto has been filed by the petitioner.

The grievance of the petitioner, in substance, is that the respondents have forcibly constructed a public road on the land of the petitioner (details whereof have been set out in paragraph 10 of this writ application) measuring a

total area of 0.362 acres.

In the counter affidavit, the respondents state that 0.257 acres of land which fell in the alignment of the road was proposed to be constructed but having found that the petitioner had objected the construction of the road has not been taken up. The road on that plot existed since last several years and this was probably with the consent of the villagers including the petitioner. The respondent-NHEPC in the counter affidavit has clearly stated that on an objection being raised by the petitioner and the State having not earmarked the private land in the alignment of the proposed road no further step has been taken.

The counsel for the petitioner, on the basis of some statements made in the counter affidavit, states that part of the road has already been constructed which has not been given the final shape. Such construction has been done without the acquisition of land of the petitioner as the Public Information Officer-cum-Special Land Acquisition Officer (Annexure-3), has disclosed that no land was acquired for construction of the road called 'Chourout Bhutaha Path'.

Having heard the parties and on going through the materials placed on record, this Court finds it rather difficult in finding as to whether the road has been constructed without the acquisition thereof utilizing the land of the petitioner or without paying heed to the concerns of the petitioner. Indisputably, the stretch of the road on which the claim has been made has not been given a final shape. The petitioner has prayed for payment of compensation for use of the land and for using the adjoining land belonging to the petitioner for earth work. As noticed, on the basis of the pleadings, this Court finds it difficult to grant the application as diverse questions of fact are involved. Declining the relief by invocation of extraordinary discretionary writ jurisdiction, this Court would permit the petitioner to ventilate his grievance before the appropriate/competent

authority of the government and/or the forum to seek his remedy in accordance with law.

The application is disposed of.

Before parting with the record, this Court would note that Mr. VRP Singh counsel for the petitioner has submitted that appropriate/competent authority in this case would be the District Magistrate of the district.

(Kishore Kumar Mandal, J)

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