

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2318 of 2013

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Kameshwar Jha S/O - Late Siyasaran Jha, R/O - Bithauli, P.S. - Simri,
District - Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Land Acquisition Department, Government of Bihar, Patna
2. The District Magistrate, Darbhanga
3. The District Land Acquisition Officer (D.L.A.O.) Darbhanga
4. The Circle Officer, Singhwara, Darbhanga
5. The Project Director, National Highway Authority Of India, Project Implementation Unit, Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amish Kumar
For the Respondent No.1 to 4 : Mr. H.S. Roy, AC to PAAG
For the Respondent No.5 : Mr. Sunil Kumar-II
Mr. Ranjan Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 26-06-2015 Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondents to pay compensation of Rs. 10 lakhs to the petitioner for alleged illegal demolition of his constructed house over khesra no. 1553, National Highway No.57, Singhwara circle in the district of Darbhanga. He has also prayed for a direction to the respondent District Magistrate, Darbhanga to hold enquiry with respect to demolition of the house of the petitioner, so that adequate compensation is paid to him.

Learned counsel appearing on behalf of the petitioner submits that the land appertaining to khesra no. 1553, total area being 3 ½ katha situate at mauza Misrauli in the district of Darbhanga was belonging to the petitioner, out of which about 2 katha of land was acquired by the competent authority for the



purposes of widening of the National Highway No.57, and after aforesaid acquisition, remaining area of land was still in his possession over which he had constructed a house. According to the learned counsel, all on a sudden on 11.08.2011 the State officials along with the officers of the National Highway authority of India came over the plot in question and demolished the entire structure of the building of the petitioner situate over khasra no. 1553. Therefore, the petitioner is entitled for compensation, which is being denied by the respondents.

The matter has been contested by the respondents by filing separate counter-affidavits; one on behalf of the National Highway Authority of India and other on behalf of the respondent no. 2,3 and 4. Learned counsel appearing on behalf of the respondents, by referring to the averments made in the aforesaid counter-affidavits filed on their behalf, are unanimous in their submissions that the claims raised on behalf of the petitioner in the present writ petition are based on disputed question of facts. According to them, no house/structure belonging to the petitioner was ever demolished by the respondents or any other authority of the State. It is pointed out by them that the lands, which was acquired for widening the National Highway No.57, were earmarked and some part of it were found to have been encroached upon by some persons. Encroachment made by some unauthorised persons over the lands acquired for widening of the National Highway No. 57 were reported to the district administration, whereafter such encroachments were removed. Therefore, it is pleaded that the entire claims of the petitioner being disputed one, he is not entitled for any compensation by an order passed in the present proceeding.

It is well settled that the issues raised on the basis of disputed question of fact cannot be gone into and adjudicated upon in a proceeding under Article 226 of the Constitution of India. However, such issues can be raised in an appropriate suit before a civil court of competent jurisdiction, whereafter on the basis of evidence produced by the parties, claims can be decided.

In above view of the matter, the present writ petition is dismissed, as the whole claim of the petitioner in the present proceeding is based on disputed question of facts. However, liberty is granted to the petitioner to approach the civil court of competent jurisdiction for grant of appropriate relief(s).

It is clarified that if any civil suit is brought by the petitioner, then the same shall be decided in accordance with law on the basis of evidence/ materials produced by the parties, but without being prejudiced by dismissal of the present writ petition.

(Birendra Prasad Verma, J)

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