

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17471 of 2014



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1. Amrendra Kumar son of Late Ram Drik Kumar
 2. Dharmendra Kumar, son of Late Brahmdeo Kumar
 3. Uday Chandra Kumar, son of Late Braj Kishore Kumar
 4. Shashi Kant Kumar, son of Uma Kan Kumar
 5. Brajendra Kumar, son of Late Damodar Kumar
 6. Bindeshwar Kumar, son of Late Kedar Kumar
 7. Gauri Shankar Kumar, son of Late Jai Sharan Kumar
 8. Radhey Shyam Kumar, son of Late Ram Bahadur Kumar
 9. Mahesh Jha, son of Late Prasad Jha
 10. Ram Kishore Kumar, son of Late Krishna Bihari Kumar
 11. Onkar Nath Kumar son of Late Baidyanath Kumar
 12. Ram Ashish Kumar, son of Tejan Kumar
 13. Aditya Nath Kumar, son of Ram Kant Kumar
 14. Vibekanand Kumar, son of Krishna Kumar
 15. Lallan Kumar, son of Late Jang Bahadur Kumar
 16. Lalit Kumar Mishra, son of Late Siyakant Mishra
 17. Uday Shankar Kumar, son of Late Jeewachh Kumar
 18. Praveen Kumar , son of Late Shambhu Nath Kumar, all residents of village Gangapatti, Anchal/police Station Bahadurpur, District Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
2. The Deputy Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
3. The Collector-cum-District Magistrate, Darbhanga, District: Darbhanga
4. The Sub-Divisional Officer, Sadar, Darbhanga, District Darbhanga.
5. The Anchal Adhikari/Circle Officer, Anchal and P.S. Bahadurpur, District DarbhangaRespondents 1st set
6. The Bihar State Electricity Board.
7. The Executive Engineer, Electricity Supply Division (Rural) Darbhanga, Bangali Tola at Laheria Sarai (Darbhanga)
8. The Assistant Engineer, Electricity Supply (Rural) Area Office.- Darbhanga

.... Respondents 2nd Set

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Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Jha, Adv.
For the Respondent/s : Mr. Ajay Bihari Sinha, S.C.19.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 13-01-2015 Heard Mr. Gajendra Kumar Jha, learned counsel for the

petitioners, Mr. Ajay Bihari Sinha S.C. 19 for the State and Mr. Anand Kumar Ojha for the respondent-distribution company.

The petitioners are aggrieved by the action of the respondent authorities of the State Government in the district of Darbhanga in proposing to erect an Electric Supply Grid/Power Sub-Station on plots over which the petitioner claim title by virtue of a purchase made as back as in the year 1937 and 1939 by their predecessor-in-interest. To be more specific, the petitioners are aggrieved by the proposed erection of the Grid/Sub Station over Plots bearing Khata Nos. 62 and 63, Khesra Nos. 281, 282 and 284 admeasuring 0.50 decimals out of the total area of the plots admeasuring 1.87 decimals and which lies on the Northern Bhinda of an old Pokhra situated on plot No. 283 in Mauza Salha, Thana No. 538, Pargana Purabbingo, Tauzi No. 1606, Mahal-Bisanpur Mahadeo, Circle Bahadurpur, District-Darbhanga.

It is the claim of the petitioner that these plots were purchased by the ancestors of the petitioners through registered sale deed executed as back as on 22.10.1937 and 16.9.1939. The copy of the sale deed which are in Kaithi script along with their Hindi translation is placed on the records of the proceedings.

It is the complaint of the petitioners that when the District authorities initiated proceeding for erection of the Grid/Sub



station, that they filed a representation before the Collector on 24.5.2014 and also drew attention of the Department towards the proposed action. Annexure-10 is another representation of the petitioner addressed to the Executive Engineer, Electric Supply Division, Darbhanga (Rural). The records manifest that vide letter bearing No. 533 dated 7.7.2014 the Deputy Secretary in the Department of Revenue and Land Reforms required the Collector, Darbhanga to consider the grievance of the petitioner and submit his report but it is the stand of the petitioner that no such steps have been taken by the Collector, Darbhanga for disposal of the grievance raised by the petitioner.

Mr. Gajendra Kumar Jha with reference to a letter of the Circle Officer bearing Memo No. 359 dated 28.5.2014 placed at Annexure-7 to the writ petition has submitted that the Circle Officer by simply giving an incorrect Khata number to the plots in question has tried to demonstrate that the land is the nature of the Government land when the fact remains that these lands have been purchased by the ancestors of the petitioners more than 80 years ago and they have been in possession thereof since then. It is contended by Mr. Jha that the sale deed which are in Kaithi script and stands translated in Hindi clearly mentions the plot number along with the khata number as existing at the time of cadastral

survey and the Circle Officer has tried to confuse the matter by mentioning the incorrect khata number simply to defeat the claims of the petitioner.

Mr. Jha learned counsel to support his contention has referred to the letter of the Circle Officer present at Annexure-7 to submit that whereas according to the Circle Officer the Plot No. 284(old) is re-numbered as Plot No. 440 in the revisional survey bearing Khata No. 49 but the copy of the Khatian enclosed by the petitioner vide Annexure-13 to the rejoinder clearly shows that plot No. 440 bears Khatian No. 92 and not 49 which by itself is sufficient to falsify the stand of the Circle Officer. He thus submits that even when its a matter of fact that these petitioners are holding their dwellings on the said plots on the basis of purchases made more than 80 years back, their right is sought to be interfered with by an incorrect interpretation of the circumstances.

Mr. Ojha learned counsel for the Distribution Company has referred to the Works of Licensees Rules, 2006 and with reference to the proviso to Rule 3(1)(b) of the rules, it is submitted that the District Magistrate has been vested with jurisdiction to consider such grievance and since the petitioners have admittedly approached the District Magistrate vide representation placed at

Annexure-6, the said representation itself can be treated to be an objection filed under the Rules and the District Magistrate may be appropriately directed for disposal of the same.

Having heard learned counsel for the parties, considering the nature of contest raised in the present proceedings and taking into consideration the provisions of the Works and Licensees Rules 2006, in the opinion of this Court since the matter is pending consideration before the District Magistrate, Darbhanga and even the letter of the Deputy Secretary, Department of Revenue and Land Reforms dated 7.7.2014 placed at Annexure-9 requires the Collector to consider the grievance raised by the petitioner, this writ petition is disposed of with the direction to the District Magistrate, Darbhanga to consider the grievance raised by the petitioners and dispose of the same in accordance with law preferably within eight weeks of receipt/production of a copy of this order and after giving an opportunity of hearing to the petitioners to represent their case with the aid of supportive documents.

The petitioners would appear before the District Magistrate with the copy of this order on/or before 27.01.2015 and whereupon the District Magistrate would fix up a date of hearing for consideration of the grievance and disposal of the matter in the

light of the stipulations made hereinabove. The petitioners shall be at liberty to submit any additional documents to support their claims by way of a supplementary petition.

Until a final order adjudicating the matter is passed by the District Magistrate, Darbhanga, the respondent authorities of the District of Darbhanga should refrain from making any alterations/interference with the right of the petitioners over the plots in question, the details whereof is mentioned hereinabove and are subject matter of this writ petition.

(Jyoti Saran, J)

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