

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11404 of 2016

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Ajay Saw, son of Late Narayan Saw, aged about 49 years, resident of Village - Hardia, P.S. - Mehandia, District - Arwal (Bihar).

.... Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Old Secretariat, Patna.
4. The Secretary, Rural Works Department, Government of Bihar, Patna.
5. The District Magistrate, Arwal (Bihar).
6. The Superintendent of Police, Arwal (Bihar).
7. The Executive Engineer, Rural Works Department, Arwal (Bihar).
8. The Junior Engineer, Rural Works Department, Arwal (Bihar).

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Bhairaw Nand Sharma, Mr. Binod Kr. Jha, Advocates
For the State	:	Mr. Sheo Shankar Prasad, S.C. 8, Mr. Praveen Kr. Singh, A.C. to S.C. 8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 16-11-2016

Heard parties.

Petitioner claims that 12 decimals of his land of plot nos.760/892, 760/895 appertaining to khata no.49 has been used in construction of a road under Pradhan Mantri Gram Sadak Yojana without its acquisition in accordance with law.

It is well established that no construction can be made by the State authority upon the raiyati land without the consent of the owner of the plot or without its acquisition in accordance with law. Petitioner has relied upon Annexure 1 which is a letter written by the Secretary of the concerned Department to



all the Executive Engineers informing them that the Government has taken a decision that no raiyati land should be utilized or used for construction of a road without the consent of the concerned parties. He also places reliance upon an order of the District Magistrate-cum-Collector, Arwal which has been appended as Annexure 2. He submits that he has already approached the District Magistrate by filing a petition contained in Annexure 3 but no decision has been taken save and except that some direction has been given to the Superintendent of Police.

Accordingly, I dispose of this writ petition with a liberty to the petitioner to again approach the respondent no.5, the District Magistrate, Arwal (Bihar) By filing a fresh representation before him setting out his claim. On such application having been filed, the District Magistrate-cum-Collector would be required to examine the matter and if it is found that road concerned has been constructed utilizing the land of the petitioner then he would have two options. First option would be to acquire the land in accordance with land and grant compensation to the petitioner. Second option would be that he would communicate his decision that the land has been utilized by the Rural Works Department while constructing the road to the Principal Secretary of the concerned department, who shall take immediate steps for removal of that part of the road which has been constructed over the land of



the petitioner. Such decision would be required to be taken by the District Magistrate concerned within a period of eight weeks from the date of receipt/production of a copy of this order. If a decision is taken to acquire the land in accordance with law then further six months should be available to the State authorities for acquiring the same and granting compensation to the petitioner in accordance with law. However, if there is any difficulty in doing that then removal of structure from the part of the constructed road from the petitioner's land would have to be completed within a period of two months after communication of such decision of the Collector to the Principal Secretary of the concerned department. However, in case, the Collector comes to the decision that no part of the petitioner's land has been utilized in construction of the road then he would be required to pass a reasoned order and that should be communicated to the petitioner within the aforesaid period of two months.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.03.2017
Transmission Date	NA

