

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2995 of 2016

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1. Ashutosh Kumar S/o Late Dukhi Paswan, Mohalla - Rajendra Nagar, P.S. + P.O.
+ District - Nawada, Pin - 805110.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Government of Bihar, Patna
Department of Home, Bihar, Patna.
2. The District Magistrate, Nawada.
3. The Sub Divisional Officer, Nawada.
4. The Block Development Officer, Nawada.
5. The Circle Officer, Nawada.
6. The Executive Engineer, District Urban Development Authority, Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Md. Mr. Waliur Rahman

Mr. Sheo Kumar Prasad

For the Respondent/s : Mr. Narendra Kumar Singh, A.C. to G.P.2

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 24-02-2016

Heard Mr. Waliur Rahman for the petitioner and A.C. to G.P.-2
for the State.

Although the Court after hearing the Counsel for the petitioner
was inclined to direct the State respondents to file counter affidavit
but Mr. Rahman, Counsel for the petitioner submits that the matter
may be disposed of directing the Executive Engineer, District Urban
Development Authority under whose authorization, the work over the
land of the petitioner detailed in paragraph 1, is being undertaken for
construction of a community hall/marriage hall, to consider the
representation of the petitioner thereagainst.

The writ application asserts right, title and possession over the



25 decimals of land appertaining to Khata no. 16 (old), Plot no. 731 situated at mauza Mirjapur Jagijeewan (Line par), P.O. + P.S. and District- Nawada. Land was recorded originally in the name of Most Aliman who sold the subject land in favour of the grandfather of the writ petitioner on 5.2.1919 (Annexure-2). In a family arrangement between the heirs of the grandfather of the petitioner, the subject land is said to have fallen in the share of the father of the petitioner. Vide Title Suit No. 76 of 2013, a decree (Annexure-3) was drawn wherein the subject land (20 decimals) had fallen in the share of the petitioner which is the land in dispute. It is alleged that the State respondents, without the consent of the petitioner and/or without acquiring the land, have started construction over the said plot. Two representations in this regard were filed before the respondent no. 6 but no heed was paid thereto resulting in filing of the writ petition.

The Counsel states that the authority should have first considered and decided the claim of the petitioner raised through those applications with respect to the title and possession of the land and forcible construction thereover by the State respondents. The petitioner shall be satisfied if the respondent accept the title/possession of the petitioner and pay adequate compensation therefor before taking up the construction on the subject land.

Having considered the submissions of the parties, I am inclined

to dispose of the application by the following order:

let the petitioner file a fresh application/representation annexing therewith all documents of title/possession in respect of the subject land before the respondent no. 6 within three weeks whereafter the said respondent shall examine/consider the grievance of the petitioner and take appropriate decision and/or pass appropriate orders thereon as quickly as possible preferably within four weeks therefrom. As soon as the petitioner files the representation along with a copy of the present order, the respondent no. 6 shall ensure that no further construction is undertaken on the land claimed by the petitioner until disposal of his representation by a reasoned order in accordance with law.

Pankaj/-

(Kishore Kumar Mandal, J)

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