

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21648 of 2011

Kaushal Kishore Prasad Singh, S/O Late Braj Mohan Prasad Singh, Resident Of Village +Police Station- Nawkothe, District- Begusarai, At Present Residing At Kachahari Road, Begusarai.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Revenue and Land Reforms Department, Govt. Of Bihar, Patna.
3. The Collector cum District Magistrate, Begusarai.
4. The Addl. Collector, Begusarai.
5. The Deputy Collector Land Reforms, Begusarai.
6. The Circle Officer, Begusarai.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr.Adv.
Mr. Rajesh Kumar, Adv.

For the Respondent/s : Mr.Sanjay Prasad, AC to AAG-4

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

Date: 24-08-2016

Heard the parties.

The grievance of the petitioner in the present writ petition is that, though the Land Acquisition Case No.1 of 2008-09 and Land Acquisition Case No.2 of 2008-09 were initiated under the provisions of The Land Acquisition Act, 1894 for acquisition of the lands belonging to the petitioner, fully detailed in paragraph 4 of the writ petition, but the aforesaid land acquisition proceedings have not been concluded and adequate compensation has not been paid to the petitioner, yet certain persons were put in possession over the same in view of the pendency of the aforesaid land acquisition cases.

The prayer of the petitioner, now, is that since the aforesaid land acquisition proceedings have been dropped in the mid-way; therefore, an appropriate direction may be issued to the State authorities that if they so desire, they may start a fresh proceeding for

acquisition of the lands in question and for payment of adequate compensation to the petitioner, or alternatively, vacant possession of the lands in question be directed to be handed over to the petitioner.

The learned State counsel appearing on behalf of the respondents, on the other hand, submits that, now, in view of change of policy, aforesaid two land acquisition cases have been dropped and the lands in question belonging to the petitioner have not been acquired by the State of Bihar. By referring to the averments made in the supplementary counter affidavit filed on behalf of the respondent no.3, it is further contended that no Mahadalit family has encroached upon the lands in question, rather some other persons are having possession over some portion of the land belonging to the petitioner.

This writ petition was heard on different dates by the different Benches of this Court and, despite orders issued by this Court from time to time, all the relevant materials have not been brought on record by the parties. However, the assertion made by the respondent no.3 in his counter affidavit has been disputed by the petitioner by filing a rejoinder affidavit. In the present case, there is one more difficulty as the alleged encroachers are not made party respondents in the present proceeding filed under Article 226 of the Constitution of India.

In above view of the matter, all the disputed questions of facts raised on behalf of the parties cannot be gone into in the present proceeding particularly in absence of those persons, who are alleged to have made encroachment over the lands in question in view of the pendency of the aforesaid two land acquisition cases initiated by the State authorities, but all these issues can be gone into and decided by the District Collector, Begusarai after giving an opportunity of hearing to all concerned and, if need be, after making

local inspection either by himself or by any other competent authority of the State.

It goes without saying that, if the lands belonging to the petitioner are acquired by the State Government, then the petitioner is entitled for adequate compensation. If during the aforesaid land acquisition proceedings, the possession over the lands in question was taken by the State authorities and subsequently proceedings were dropped, then the petitioner is entitled to get back vacant possession over the lands in question, but these are the issues, which are yet to be conclusively determined by the competent authority namely the District Collector, Begusarai.

In above view of the matter, the petitioner is granted liberty to file a comprehensive representation before the District Collector, Begusarai with all relevant documents, and raising all the pleas, which have been raised in the present writ petition.

If such a representation is filed on behalf of the petitioner within a period of one month from today with a certified copy of the present order, then the respondent District Collector, Begusarai shall be obliged to consider and decide the claims raised on behalf of the petitioner strictly in accordance with law, by a reasoned and speaking order, after giving an opportunity of hearing to all concerned including the persons, who are alleged to have come in possession over the lands belonging to the petitioner during the pendency of aforesaid two land acquisition cases, at an early date, preferably within a period of three months from the date of filing of such representation by the petitioner.

It is clarified that, if on consideration of the materials, the respondent District Collector, Begusarai comes to a conclusion that the claims raised on behalf of the petitioner are admissible to him,

then the consequential orders shall also be issued for grant of such admissible claims without any unnecessary further delay.

The writ petition stands finally disposed of with the observations and directions made above.

Arvind/-

(Birendra Prasad Verma, J.)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.08.2016
Transmission Date	N/A