

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8860 of 2008

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1. Narayan Singh @ Narayan Sinha son of Late Jaddu Singh @ Jaddu Mahto,
(Expunged vide order dated 07.03.2014 and substituted by the following
heirs and legal representatives)

1(i) Ingla Devi (wife)

1(ii) Sachidanand Singh (son)

1(iii) Bipin Kumar @ Munna (son)

1(iv) Om Prakash @ Chunnu

1(v) Ravi Shankar @ Pankaj Kumar

Petitioner No.1(i) to 1(v) are residents of Mohalla Rajendra Nagar, P.O.
Rajendra Nagar, Road No. 11/F, Plot No. 41/E, P.S.Kadam Kuan & District
Patna

1(vi) Veena Kumari D/o Late Narayan Singh W/o Dr.Birendra Kumar, resident
of Mohalla Bakarganj, Bajaja, P.O. Bankipur, P.S.Pirbahor, Patna 4

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Land Acquisition Officer, Patna
3. The Secretary, Public Works Departments, Patna
4. Executive Engineer, Road Construction Division, Patna, Western road
Division, Patna
5. Sachida Nand Singh son of Late Narayan Singh @ Narayan Sinha

... Respondent/s

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Appearance :

For the Petitioner/s

: Mr. Jitendra Kishore Verma, Advocate
Mr. Abhishek Anand, Advocate

For the Respondent Nos. 1 to 4: Mr.Ajay Kumar Sharma, AC to PAAG-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

Date: 21-09-2016

Heard the learned counsel appearing on behalf of the
substituted petitioners and the learned AC to PAAG-1, appearing on
behalf of the respondent nos. 1 to 4. However, none appears on behalf
of the respondent no.5, though notice was issued to him way back by
order dated 02.04.2014.

2. The grievance of the substituted petitioners in the
present writ petition is that the State authorities have taken possession
even on such area of lands, which were not acquired by them under
the provisions of The Land Acquisition Act, 1894; therefore, a prayer
has been made that they should be directed not to occupy such area
of lands of plot no. 3690 appertaining to khata no. 599, which are

beyond the acquired area of lands, or alternatively, the petitioners should be paid adequate compensation, if those area of lands are required by the State authorities.

3. The learned counsel appearing on behalf of the substituted petitioners submits that only small area of land admeasuring .055 acres, appertaining to khata no. 599, plot no. 3690 situate at Mauza Chandausi, P.S.Paliganj, District Patna was acquired, but the respondents authorities have taken possession over some more area of lands by filling up earth/clay for constructing the road in question.

4. In the present case, in the light of the previous orders passed by this Court, separate counter affidavits have been filed on behalf of the respondent no.2 as also respondent nos. 3 and 4. In the counter affidavit filed on behalf of the respondent no.2 it has been stated in paragraph 5 that the original writ petitioner had already been paid the entire amount of compensation payable to the land owner. In the counter affidavit filed on behalf of the respondent nos. 3 and 4 it has specifically been stated that the road in question has been declared as State Highway No. 68 and by order dated 01.08.2007 it has been transferred to State Highways Division, Gaya. Therefore, it is now under the control of the Bihar State Road Development Corporation Limited, Gaya. The learned AC to PAAG-1 appearing on behalf of the official respondents, by referring to the averments made in the aforesaid counter affidavit, submits that by letter dated 19.03.2015 issued by the Deputy General Manager (Tech) of Bihar State Road Development Corporation Limited, the Executive Engineer, Road Division, Patna West, Patna has been directed to remove earth/clay from unacquired lands. It is contended by him that a positive direction has been issued for the construction of road only on acquired area of lands and further acquisition of land is not required. It is submitted by the learned State counsel that in view of the aforesaid order, the

grievances of the petitioners have been redressed.

5. The copies of the aforesaid counter affidavits were served upon the learned counsel appearing on behalf of the petitioners way back on 31.03.2015 and 08.10.2015 respectively, but despite passage of such a long time, no rejoinder affidavit has been filed on behalf of the petitioners controverting the averments made in the aforesaid two counter affidavits.

6. In view of the averments made in the aforesaid two counter affidavits, this Court is of the opinion that the grievances of the petitioners have already been redressed in view of the order/communication dated 19.03.2015 issued by the Deputy General Manager (Tech) of Bihar State Road Development Corporation Limited, as contained in Annexure-B to the aforesaid counter affidavit filed on behalf of the respondent nos. 3 and 4. However, if the earth/clay over the remaining area of land of the petitioners have not been removed till date, then the petitioners shall be at liberty to approach the Executive Engineer, Road Construction Division, Patna West, Patna (respondent no.4) by filing a representation with a certified copy of the present order and in that case, the respondent no.4 shall be obliged to remove earth/clay from the unacquired lands belonging to the petitioner at an earliest preferably within a period of one week from the date of filing of such a representation by the petitioners.

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

(Birendra Prasad Verma, J)

Tahir/-

AFR/NAFR	
CAV DATE	
Uploading Date	27.09.2016
Transmission Date	