

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15045 of 2015

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1. Vedanand Thakur, S/o Late Chandeshwar Thakur
2. Md. Habibur Rahman, S/o Late Md. Motiur Rahman
3. Ramsharan Lal, S/o Late Kishun Lal
4. Kaushal Kishore Dutt, S/o Late Sarabjeet Dutt
5. Govind Narayan Thakur, S/o Late Nilambar Thakur
6. Surendra Narayan Thakur, S/o Late Nilambar Thakur
7. Yogendra Thakur @ Yogendra Narayan Thakur, S/o Late Nilambar Thakur
8. Lalan Shah, S/o Raudi Shah, All Resident of Village Balha Maksudan, P.S. Pupri, District Sitamarhi, Bihar.

.... Petitioners

Versus

1. The State of Bihar through District Magistrate.
2. The Principal Secretary, Rural Works Department, Govt. of Bihar
3. District Magistrate, Sitamarhi.
4. Deputy Development Commissioner, Sitamarhi.
5. Sub Divisional Officer, Pupri, District Sitamarhi.
6. Executive Engineer, Rural Works Dept., Pupri.
7. Circle Officer, Pupri, Sitamarhi.

.... Respondents

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Appearance :

For the Petitioners : Mr. Ravi Kumar,
Mr. Ankit Katriar, Advocates

For the State : Mr. M.N.H. Khan, S.C. 1

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 18-11-2016

As prayed, learned counsel for the petitioner is permitted to implead the Principal Secretary, Rural Works Department, Govt. of Bihar as party respondent in course of the day.

Heard parties.

Petitioners claim that their land has been utilized in construction of a road under the Mukhayamantri Gramin Sadak Yojana and despite knocking at the door of different respondents, no



heed has been paid till date upon the grievance of the petitioners and they are entitled for compensation.

A counter affidavit has been filed on behalf of the respondent no.5 stating that petitioners did not raise any objection while the road was being constructed and after the construction of road, they are pressing for payment of compensation which is an afterthought and they cannot be allowed to do that.

This limb of argument raised on behalf of the State is only noted to be rejected. It was the duty cast upon the State authorities to ascertain, before construction of the road, as to whether they are utilizing any raiyati land. In case any raiyati land was being utilized, it was their bounden duty to seek consent from the title holder of the raiyati land.

In paragraph no.7 of the counter affidavit, it is also stated that no part of any land described in the writ petition has been utilized in construction of the road save and except plot no.5112 on which construction has been made with the consent of the landowners but no letter of consent or even name of such consent giver has been disclosed. That apart, the report of the letter of the Deputy Development Commissioner dated 11.08.2011 which has been brought on record as Annexure 3 clearly indicates that after verification, it has been found that on plot nos.5124, 5119, 5118,



5120, 5117, 5102, 5103 and 5113, there was no pre-existing road according to the revenue map but those lands have been utilized for construction of the road.

In my view, if road has been constructed on raiyati land, that would be against the policy decision of the State Government which has been formulated after a decision of the co-ordinate Bench of this Court rendered in **C.W.J.C. No.8319 of 2013 (Smt. Meira Kumar Versus the State of Bihar & Ors.)**.

Accordingly, I direct the District Magistrate, Sitamarhi to make an enquiry in this matter and if it is found that petitioners' land has been utilized in construction of the road concerned then that should immediately be communicated to the Principal Secretary, Rural Works Department, Govt. of Bihar. Thereafter, there would be two options available to the State Government, either to acquire the land which has been utilized in the construction of the road in accordance with law, or grant compensation or remove the structure forthwith. The District Magistrate would be required to take a decision within a period of two months from the date of receipt/production of a copy of this order and in case the land is required to be acquired in accordance with law then that should be done within a further period of four months from the date of communication of the decision of the District Magistrate to the



Principal Secretary concerned. If the Principal Secretary decides that the land cannot be acquired then structure should be removed within two months from the date of such communication. It is further made clear that if the District Magistrate finds that no part of the raiyati land belonging to the petitioners has been utilized in construction of the road then a reasoned order would be required to be passed within aforesaid period of two months which should be immediately communicated to the petitioners.

Accordingly, this writ application stands disposed of with the aforesaid observations and directions.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.02.2017
Transmission Date	NA

