

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5027 of 2014

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Jagdish Giri, Son Of Late Sheo Nath Giri, Resident Of Village - Baidyanathpur,
P.O. + P.S. - Sahebganj, District - Muzaffarpur

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry Of Railway, New Delhi
2. The General Manager, Hajipur Zone, East Central Railway, Hajipur
3. The State Of Bihar through the Chief Secretary, Government Of Bihar, Patna
4. The District Magistrate, Muzaffarpur
5. The Land Acquisition Officer, Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Adv.

For the Respondent no.2 : Mr. Devendra Kr. Sinha, Sr.Adv.
Mrs.Binita Singh, Adv.

For the Respondent nos.3to5 : Mr.Biresh Kumar Sinha, AC to AAG-2

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 27-06-2016

Heard the parties.

The matter at issue is the construction of railway line/track from Hajipur to Sugauli over a plot of land bearing C.S. Khata No.363 appertaining to C.S. Plot No.8 corresponding to R.S. Plot no.81, area 2 decimals situate at village-Bajinathpur-I, P.S.+Anchal-Sahebganj, District-Muzaffarpur (hereinafter to be referred to as the 'land in question').

Indisputably, the land in question has been recorded as "Gair Mazarua Aam Land" in the continuous khatian, which has been brought on record as Annexure-1 to the writ petition. Nature of the land has been described as Kabristan. Apparently, the petitioner is not having any legal right and title over the land in question, though he claims to have his possession over the same for quite a long period. But, even claim of illegal possession of the petitioner over the land in question is not substantiated by revenue records including the survey khatian. In the whole writ petition, the petitioner has not brought on record even a chit of paper showing his right and title over the land in

question.

The petitioner has filed the present writ petition assailing the validity and correctness of the order dated 16.04.2013 passed in Misc.Case No.19 of 2010-11 by the respondent District Collector, Muzaffarpur, as contained in Annexure-12, whereby the representation filed by him in the light of the observations/directions made by a Bench of this Court by an order dated 02.08.2010 passed in CWJC No.6091 of 2010 (Annexure-10) has been rejected. The petitioner has further prayed for a direction to the respondent authorities to find out feasibility of an alternative railway line/track from Hajipur to Sugauli in order to protect alleged Samadhi Sthal/Kabristan of the ancestor of the petitioner over the land in question.

From the materials available on the record as also from the findings recorded by the respondent District Collector, Muzaffarpur in the impugned order dated 16.04.2013 (Annexure-12), it is apparent that, in view of the requisition made by the Deputy Chief Engineer, Construction, East Central Railway, Patna, a land acquisition proceeding was started under the provisions of The Land Acquisition Act, 1894 (in short 'Act, 1894') for acquisition of 2.64 acres of land including the land in question situate at village-Bajnathpur (Chadar No.1), Anchal-Sahebganj, District-Muzaffarpur and accordingly notification under Section 4 read with Section 17(4) of the Act, 1894 was issued on 29.11.2006 and declaration under Section 6 of the Act, 1894 was made on 12.12.2006. After completion of acquisition proceeding, possession over the land in question, besides other plots of lands, was handed over to the requisitioning authority i.e. the Railways on 18.04.2008. Admittedly, the petitioner did not file any objection either under Section 9 of the Act, 1894 or even thereafter since he does not have any legal right over the land in question, as it was recorded as "Gair Mazarua Aam Land" in the



revenue records. However, petitioner filed some representations before the authorities concerned for protecting the Samadhi/Kabristan of his ancestors, and thereafter he moved before this Court in CWJC No.6091/10, which was finally disposed of by a Bench of this Court by an order dated 02.08.2010 (Annexure-10) with a direction to the District Collector, Muzaffarpur to dispose of the representation filed on behalf of the petitioner with respect to the land in question.

In the light of the observations/directions issued by this Court, the petitioner filed his representation before the District Collector, Muzaffarpur, on the basis of which Misc.Case No.19 of 2010-11 was registered. Subsequently, a Three Men Enquiry Committee was set up by the District Magistrate, Muzaffarpur to hold local inspection and record its findings regarding the land in question. Accordingly, the Enquiry Committee made local inspection, examined certain local people and submitted its report that the land in question does not belong to the petitioner; and recently he has put up a brick-railing over the land in question and he is raising a claim that the same is Samadhi/Kabristan of his forefather. The Enquiry Committee further reported that the petitioner is trying to capture the land in question for his personal benefit and recommended for rejection of his claim. The District Collector, Muzaffarpur heard the parties and considered the entire matter and finally he has rejected the representation of the petitioner by the impugned order dated 16.04.2013 (Annexure-12).

Though, the petitioner has no legal right over the land in question, but the whole exercise undertaken by him for getting the railway track/line shifted from the approved site and fixed railway alignment on the basis of final location survey, is only for protecting the alleged emotional and religious attachment of the petitioner and his family with the so-called Samadhi/Kabristan over the land in question, as, according to him, he has constructed the Samadhi and

dead body of his ancestors were cremated there.

This Court is of the considered opinion that personal emotions and/or the religious attachment of a particular individual have to give a way to the larger interest of the nation and the society. In the present case, the land in question has been acquired for construction of a railway line/track from Hajipur to Sugauli, which will be for the benefit of the common people not only of that area, but for the whole nation. At the cost of national interest as also the society at large, the personal interest/sentiment/religious attachment cannot be protected. Admittedly, the petitioner has no legal right over the land in question and the same was recorded even in continuous khatiyaan as “Gair Mazarua Aam Land.”

In absence of any legal right of the petitioner over the land in question, the impugned order dated 16.04.2013 passed in Misc.Case No.19 of 2010-11 by the respondent District Collector, Muzaffarpur, as contained in Annexure-12, cannot be legally faulted. In above view of the matter, this Court is of the opinion that the present writ petition is devoid of merit and is, accordingly, dismissed, but there shall be no order as to costs.

Arvind/-

(Birendra Prasad Verma, J)

AFR/NAFR	AFR
CAV DATE	
Uploading Date	04.07.2016
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