

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13466 of 2015

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Dinbandhu Kumar, son of Late Kashi Nath Sharma, resident of village
Taret, Police Station- Naubatpur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Patna.
2. The Sub-Divisional Officer, Danapur, Patna.
3. The Block Development Officer, Naubatpur, Police Station- Naubatpur,
District- Patna.
4. The Circle Officer, Naubatpur, District- Patna.
5. The Officer-in-Charge, Naubatpur, Patna.
6. M/S Ram Chandra Rao Trasmission Project Pvt. Ltd., Hyderabad, Local
office- Gaurichak, Bihta within the District of Patna.
7. Land Acquisition Officer, Danapur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya, Adv.

Mr. Pramod Kumar, Adv.

For the Respondent nos.1to5&7: Mr. Shailendra Kumar Jha, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

3 28-06-2016

Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India for the reliefs enumerated in paragraph 1 of the writ petition, which reads as follows:-

“That this application on behalf of the petitioner is being filed for issuance of a writ in the nature of writ of mandamus or any other appropriate order directing the respondents not to occupy the land of the petitioner un-authorizedly situated at Mauza- Birpur, Police Station-Naubatpur, District-Patna appertaining to khata no.277, plot nos. 938, 939, 940 and 941 by respondent no.7.”

Learned counsel appearing on behalf of the petitioner submits that the lands in question, fully detailed in paragraph 1 of the writ petition, are the homestead lands of the petitioner; therefore, electric poles/strut cannot be put up there by



the respondent no.6 under the provisions of The Works of Licensees Rules, 2006 (in short 'Rules, 2006'). He further submits that, in view of the objection raised by the petitioner, the works for setting up the electric poles/ struts over the lands in question cannot proceed unless and until an order is obtained either from the District Magistrate or the Commissioner of Police or any other officer authorized by the State Government. He next contended that no order has been passed by the competent authority in terms of Section 3 of the Rules, 2006.

In the present case, though a sketchy counter affidavit has been filed on behalf of the respondents sworn by Circle Officer, Naubatpur, but the issues raised on behalf of the petitioner have not been properly answered.

In above view of the matter, this Court is of the opinion that, instead of keeping the matter pending before this Court asking the learned State counsel to file supplementary counter affidavit, the interest of justice shall be sub-served, if the petitioner is granted liberty to file an appropriate fresh petition before the respondent District Magistrate, Patna raising objection under the provisions of the Rules, 2006 and/or other connected law with all supporting documents and raising all the pleas, which have been raised in the present writ petition. It is ordered accordingly.

If such a fresh comprehensive representation is filed by the petitioner within a period of one month from today with a certified copy of the present order, then the respondent District Magistrate, Patna either himself or any other competent authority of the respondent State shall be obliged to consider and decide the claims/objections 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 petitioner and other concerned authorities, besides other private individuals, if any, at an early date, preferably within a period of three months from the date of filing of such fresh comprehensive representation by the petitioner in the manner indicated above.

If on consideration of the materials and after hearing the parties, the respondent District Magistrate, Patna or any other competent authority, as indicated above, comes to a conclusion that the claims/objections 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.

It is clarified that this Court has not gone into the merits of the claims raised on behalf of the petitioner with respect to the lands in question and it is left to be decided by the competent authority strictly in accordance with law.

Till the matter is finally disposed of, no coercive steps shall be taken against the petitioner with respect to the lands in question.

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

(Birendra Prasad Verma, J)

Arvind/-

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