

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12758 of 2010

Ram Niranjana Gupta S/O Late Suraj Sao R/O Vill Ganjas, P.S.Mufassil, Distt-Gaya

..... Petitioner/s

Versus

- 1. The State Of Bihar
- 2. The District Magistrate Gaya
- 3. The Sub Divisional Officer Sadar, Gaya
- 4. The Circle Officer Manpur, Gaya
- 5. The District Board, Gaya through its Executive Officer

..... Respondent/s

Appearance :

For the Petitioner/s : Mr. D.K.Sinha, Sr. Counsel
Mr. NAGENDRA KR.SINGH
For the Respondent/s : AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 30-08-2016

Heard Mr. D.K.Sinha, learned Sr. Counsel in support of the writ petition as well as AC to AAG-12 for the State.

Notice was issued to respondent no.5. No one has appeared on behalf of respondent no.5. However, a counter affidavit on behalf of respondent nos. 2 to 5 is filed.

The grievance of the petitioner is with respect to the land appertaining to khata no.70, plot nos. 333 and 335, measuring a total area of 4.22 acres. It is claimed that the father of the petitioner had purchased the said land through a registered sale deed. A proceeding under the Bihar Tenancy Act (for short ‘the B.T. Act’) was initiated in respect of the subject land which was allowed in favour of the respondent District Board. Aggrieved thereby, the petitioner filed Revision Case No. 14827/76 which was allowed in favour of the petitioner vide Annexure-6 to the rejoinder. Subsequently, the records of right in respect of the



subject land was also created in favour of the petitioner inasmuch as the rent receipts were issued against the payment of the land rent. It is further stated that Measurement Case No. 99/12-13 was initiated by a family member of the petitioner in which the Circle Officer found the possession of the writ petitioner over the subject land. Even then, the respondents are arbitrarily constructing the Gaya-Fatehpur Road over the subject land without acquiring the same after paying the fair compensation therefor.

In the counter affidavit of the respondents, a vague statement is made that the land belongs to the District Board. The construction company was allowed to construct the Gaya-Fatehpur Road over the government land owned by the District Board. It is also stated that objections filed in this regard were considered and disposed of before permitting the Agency/Company to construct the said road over the subject land. However, from the counter affidavit of the respondents it does not appear that they specifically controverted the relevant statements made with regard to title and possession over the subject land of the petitioner. There is no denial of the statement that Revision Case No. 14827/76 filed by the father of the petitioner was allowed and the order passed by the authority under the B.T. Act in favour of the District Board was set aside.

On going through the relevant statements and after hearing the parties, it appears that a dispute with regard to title over the subject land is projected through this writ petition. The writ petitioner asserts his right, title and possession over the subject land whereas the respondents claim it to be the land of the government/District Board. An enquiry in this regard by the authority would be more appropriate.

The counsel for the petitioner has rightly submitted that the District Magistrate, on a representation filed by the petitioner, should make a detailed

enquiry in this regard and, if need be, a physical verification of the subject land should also be made whereafter the respondents may proceed/go ahead with the construction of the road over the land in question claimed by the petitioner.

Having heard the submissions of the parties, in my view, the ends of justice shall be subserved if the petitioner is granted an opportunity to file a detailed representation before the respondent District Magistrate setting out his grievance in detail supported by all relevant documents. If any such representation is filed within 03 weeks from today, the respondent District Magistrate shall make an appropriate enquiry after giving opportunity of hearing to the petitioner in the said enquiry and decide the claim with respect to the subject land. Until a final order is passed on the said representation of the petitioner by the concerned respondent by a reasoned order, it is directed that the respondent(s) including the Agency/Company through which the construction of the road over the said land is being undertaken, shall restrain themselves from proceeding/going ahead further with the construction of the road on the subject land on and from the date the representation is filed.

With the aforesaid observation(s)/direction(s), the writ petition is disposed of.

(Kishore Kumar Mandal, J)

HR/-

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