

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8771 of 2014

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Bashishth Singh son of Late Vikrama Singh, resident of village - Banarpur,
P.S. Buxar (M), District – Buxar Petitioner/s

Versus

1. The State of Bihar
2. The Chief Engineer (Project and design) Thermal Power Project, Bihar
State Power Generation Company Ltd. Patna
3. The Land Acquisition Officer, Buxar, District - Buxar
4. The Deputy Secretary of Bihar Government of Department of Revenue
and Land Reforms Patna, Bihar
5. The Circle Officer, Circle Chousha, District - Buxar

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha, Advocate

For the Respondent No.2 : Mr. Vinay Kirti Singh, Sr. Advocate

Mr. Vijay Kumar Verma, Advocate

Mr. Akhileshwar Singh, Advocate

For the Respondent Nos1 & 3 to 5: Mr. Anil Kumar Sinha, AC to AAG-IX

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 21-12-2016

Heard the parties.

2. The petitioner has filed the present writ petition under Article 226 of the constitution of India assailing the validity and correctness of the letter/communication dated 28.12.2013 issued by the respondent District Land Acquisition Officer, Buxar, as contained in Annexure-6 to the writ petition, whereby the prayer of the petitioner to release the lands in question, detailed in paragraph 1 of the writ petition, from the land acquisition proceeding in question, has been rejected.

3. Though, the learned counsel appearing on behalf of the petitioner has argued the matter at some length, but he has not been able to show that on the basis of the land acquisition proceeding in question initiated for acquisition of large area of lands including the lands in question belonging to the petitioner, award under Section 11 of The Land Acquisition Act, 1894 (in short “the Act, 1894”) has been prepared. The learned counsel appearing on behalf of the petitioner has also not been able to



show that by issuance of the impugned communication, any provision of the Act, 1894 or any other law, has been violated. The only plea raised on behalf of the petitioner is that over the lands in question, the petitioner is having his residential house; therefore, a direction may be issued to the respondent-authorities not to acquire the lands in question.

4. Separate counter affidavits have been filed on behalf the respondents controverting the averments made in the writ petition. According to the learned senior counsel appearing on behalf of the respondent no.2 and the learned State counsel appearing on behalf of other respondents, on the basis of inquiry it was found that the petitioner is not having residential house over the lands in question. Further, in their counter affidavits, they have also not disclosed that the award under Section 11 of the Act, 1894 has been prepared.

5. In above view of the matter, it is apparent that the entire claim raised on behalf of the petitioner in the present writ petition is based on disputed question of facts, which cannot be appropriately gone into in the present proceeding filed under Article 226 of the Constitution of India. Furthermore, there is no material to show that the award under Section 11 of the Act, 1894 has been prepared. Hence, it is apparent that the proceeding is still pending before the Collector under the Act.

6. In above view of the matter, there is no question of issuance of any direction to the respondent-authorities for release of the lands in question from the land acquisition proceeding. The present writ petition, at this stage, is devoid of merits and is, accordingly, dismissed. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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