

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11002 of 2013

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Krishna Kumar Singh Son of Late Laliteshwar Prasad Singh, Resident of Village -
Sakarpura, P.S. Bakhri, Distt. - Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary Road Construction Department, Government of Bihar, Patna
3. The Secretary, Rural Works Department, Government of Bihar, Patna
4. The District Magistrate, Begusarai
5. The Sub - Divisional Officer, Bakhri under the District Begusarai
6. The Block Development Officer, Bakhri Under The District Begusarai
7. The Circle Officer, Bakhri under the District Begusarai
8. The Engineer in Chief R.E.O. Bihar, Patna
9. The Chief Engineer R.E.O. Bihar, Patna
10. The Superintending Officer, R.E.O. Circe, Darbhanga
11. The Executive Engineer, Divisional Office, Begusarai
12. The Land Acquisition Officer, Munager
13. The Land Acquisition Officer, Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.K.Ghosh, Senior Advocate.
Mr. Binod Kumar Ambastha, Advocate.

For the Respondents/State : Mr. Roy Shivaji Nath, AAG-3.
Mr. Jaivardhan Narain, AC to AAG-3.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 14-01-2016

Heard the parties.

The petitioner has approached this Court in the present proceeding filed under Article 226 of The Constitution of India seeking a direction to the respondents to remove the encroachment allegedly made by them for construction of a public road over an area of 3 Bigha 10 Katha 13 Dhurs and 15 Dhurkies belonging to the petitioner. The petitioner has further prayed for a direction to the respondents for payment of adequate compensation for the loss suffered by him due to illegal action of the respondent authorities.

The learned Senior Counsel appearing on behalf of the petitioner submits that the lands, fully detailed in paragraph -4 of the



writ petition, belonged to the petitioner, yet without starting any land acquisition proceeding, possession over the same was taken by the respondent authorities for construction of a public road, known as “Mouza Sakarpura Mahabir Asthan to Naushad Abhiman Kali Asthan.” It is contended that in view of the nature of grievances/claims raised on behalf of the petitioner in the present proceeding, a direction was issued by a Bench of this Court by an order dated 28.08.2014 for holding inquiry, but aforesaid inquiry was never made in presence of the writ petitioner. It is next contended that for redressal of his valid grievances, the petitioner approached the authorities concerned including the respondent District Collector, Begusarai, yet his grievances have not been redressed till date.

The matter has been contested by the respondents. The learned AAG-3 appearing on behalf of the respondents, by referring to the averments made in the counter-affidavits/ supplementary counter-affidavits filed on behalf of the respondents, submits that the lands in question is being used as a public road since long time and therefore, under the Government Scheme of the years 2004-05, the road in question was constructed. According to him, so far the petitioner is concerned, only 2 decimals of his lands has been used for the purposes of construction of aforesaid public road and some of the lands are Gair Majarua Aam Land, not belonged to the petitioner. He next contended that the public road was constructed under the Government Scheme of the year 2004-05 and the construction work was completed in the year 2010, but no objection was raised at that time by the petitioner, yet at a belated stage, he has filed the present writ petition before this Court, raising all those grievances, which were never raised before the authorities concerned. However, he fairly conceded that at the time of conducting inquiry, as per direction of

this Court, notice was not issued to the petitioner.

After having heard the parties and taking into consideration the materials available on the record, this Court finds that there are many disputed questions of facts which have not been conclusively decided by any competent authority. Admittedly, the claims raised on behalf of the petitioner before the authorities have not been disposed of by a reasoned and speaking order. Even, alleged inquiry was not conducted in presence of the petitioner for coming to a conclusion, as to which part of the land, which has been used for the purposes of construction of road, belongs to the petitioner and which other part of the land belongs to some other persons or are Gair Majarua aam land.

In above view of the matter, this Court is of the considered opinion that entire matter requires reconsideration and fresh decision by the respondent District Collector, Begusarai after looking into all the relevant documents /materials placed by the petitioner as also other relevant Government record regarding the lands in question.

For the reasons recorded above, the petitioner is directed to appear before the respondent District Collector-cum-District Magistrate, Begusarai within a period of one month from today with a certified copy of the present order as also with a comprehensive representation along with all the relevant documents/ materials in support of his claims regarding the lands in question. On his appearance, the respondent District Collector-cum-District Magistrate shall consider and decide the claim of the petitioner by a reasoned and speaking order. For coming to a specific conclusion if the respondent District Collector-cum-District Magistrate so decides, he may get the matter inquired into and for purposes of inquiry, the petitioner must be given proper notice. After obtaining the inquiry report, respondent

District Collector-cum-District Magistrate shall decide the matter strictly in accordance with law at an early date preferably within a period of three months from the date of filing a comprehensive representation by the petitioner in the manner indicated above, but before passing any final order an opportunity of hearing must be given to the petitioner and all other concerned persons.

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

(Birendra Prasad Verma, J)

BTiwary/Brajesh-III

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