

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22419 of 2013

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1. Bhubneshwar Thakur, Son Of Late Shobha Kant Thakur, Resident Of Village - Belauna (Koriapatti), Police Station - Basopatti, District - Madhubani
 2. Shatrughana Thakur, Son Of Late Shobha Kant Thakur, Resident Of Village - Belauna (Koriapatti), Police Station - Basopatti, District - Madhubani
 3. Shambhu Nath Thakur, Son Of Late Balkrishna Thakur, Resident Of Village - Belauna (Koriapatti), Police Station - Basopatti, District - Madhubani
 4. Mantu Thakur, Son Of Late Krishna Kumar Thakur, Resident Of Village - Belauna (Koriapatti), Police Station - Basopatti, District - Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar, through the Principal Secretary, Land Acquisition Department
2. The Principal Secretary, Land Acquisition Department, Govt. Of Bihar, New Secretariat, Patna
3. The District Magistrate, Madhubani
4. The District Land Acquisition Officer, Madhubani
5. The Deputy Development Commissioner, Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha, Adv.
For the Respondent/s : Mr. Krishna Chandra, AC to AG

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 05-01-2016

Heard the parties.

The petitioners have filed the present writ petition seeking a direction to the respondents particularly the respondent nos.3 and 4 restraining them from constructing any public road on the personal lands of the petitioners. They have also prayed for payment of adequate compensation to them for the damages caused over the lands belonging to them.

The learned counsel appearing on behalf of the petitioners submits that for the purposes of construction of public road under Prime Minister Gramin Sadak Yojna, without starting

any land acquisition proceeding, public road is being constructed over the lands belonging to them. Therefore, according to him, the respondents may be restrained from proceeding further for constructing the public road under the aforesaid scheme.

The matter has been contested by the respondents by filing a counter affidavit on behalf of the respondent nos.3 and 4. The learned AC to AG appearing on behalf of the respondents, by referring to the averments made in the aforesaid counter affidavit, submits that on the basis of the enquiry conducted by the competent authority it was found that a Kachha Road was already existing over the lands in question and, therefore, under the Prime Minister Gramin Sadak Yojna a road is being constructed for the use and benefit of the general people. However, despite repeated query, he has not been able to satisfy this Court that the aforesaid enquiry was conducted in presence of the petitioners.

After having heard the parties and on consideration of the materials available on the record, this Court finds that the claims raised on behalf of the petitioners are based on certain disputed questions of facts. However, this much is apparent that the enquiry conducted by the authorities of the respondent State was not in presence of the petitioners. Therefore, fresh enquiry is required to be conducted in presence of the petitioners.

In above view of the matter, the petitioners are directed to appear before the respondent District Magistrate, Madhubani with a comprehensive representation raising all the issues, which have been raised in the present writ petition, within a period of one month from today. On appearance of the petitioners within the aforesaid period of time with a certified copy of the present order, the respondent District Magistrate, Madhubani shall

hold an enquiry either himself or shall get it conducted by any other superior officer, but that enquiry must be done after notice and in presence of the petitioners, besides others. After holding such enquiry, he shall pass an appropriate final order with respect to the claims raised on behalf of the petitioners, but, before passing any final order, once again an opportunity of hearing must be given to the petitioners, besides others, and the representation filed on behalf of the petitioners must be disposed of by a reasoned and speaking order strictly in accordance with law, at an early date, preferably within a period of three months from the date of filing of the representation by the petitioners.

It is further directed that till the matter is finally decided by the respondent District Magistrate, Madhubani, no further construction shall be made over the lands belonging to the petitioners.

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

(Birendra Prasad Verma, J)

Arvind/-

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