

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.43 of 2016**

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1. Bir Bahadur Prasad S/o Sudarshan Prasad Resident of Station Road, Masrakh, District - Saran at Chapra
  2. Ranjeet Singh S/o Harendra Singh Resident of Station Road, Masrakh, District - Saran at Chapra
  3. Akhilesh Gupta S/o Sri Kameshwar Prasad Resident of Station Road, Masrakh, District - Saran at Chapra
  4. Chandan Kumar @ Chandan Kumar Rastogi S/o Shyam Babu Prasad Resident of Station Road, Masrakh, District - Saran at Chapra
  5. Munna Prasad S/o Sri Nand Kishore Prasad Resident of Station Road, Masrakh, District - Saran at Chapra
  6. Sonu Kumar Rastogi S/o Brij Mohan Rastogi Resident of Station Road, Masrakh, District - Saran at Chapra
  7. Hariom Kumar Rastogi S/o Govind Prasad Rastogi Resident of Station Road, Masrakh, District - Saran at Chapra
  8. Dilip Prasad S/o Darogo Prasad Resident of Station Road, Masrakh, District - Saran at Chapra
  9. Manoj Kumar Rastogi S/o Dharmdeo Prasad Rastogi Resident of Station Road, Masrakh, District - Saran at Chapra

.... .... Petitioners

Versus

1. The State of Bihar, through Chief Secretary, Govt. of Bihar, Old Secretariat, Baily Road, Patna
2. The Principal Secretary, Bihar State Road Construction Department, Patna
3. The District Magistrate, Chapra, Saran, District Chapra, Saran
4. The Deputy Development officer, Chapra, Saran
5. The Chairman, District Board, Saran at Chapra
6. The Chief Executive Officer, District Board, Saran, Chapra
7. The District Engineer, of the District Board Saran at Chapra

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Abhay Krishna, Advocate

For the Respondent State: Mr. P.N.Shahi, Aag10

For the Respondent Nos.4 to 7: Mr. Arun Kumar, Advocate

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE NAVANITI PRASAD**

**SINGH**

**ORAL ORDER**

**(Per: HONOURABLE THE ACTING CHIEF JUSTICE )**

7      12-05-2016

Heard Mr. Abhay Kumar, learned Counsel for the

petitioners, and Mr. Arun Kumar, learned Counsel for the respondent Nos. 4 to 7. Heard also Mr. P.N.Shahi, learned Additional Advocate General No. 10, appearing for the State respondents.

With the help of this writ petition, made under Article 226 of the Constitution of India, in the form of Public Interest Litigation, the petitioners have alleged to the effect, *inter alia*, that a market complex is being raised by Zila Parishad, Saran at Chapra by encroaching upon a canal.

Countering the allegations made by the petitioners, respondent Zila Parishad has submitted, in their affidavit, to the effect that under the plan, construction of market complex is being done on the land of Zila Parishad called as Khanta land and the said Khanta land is neither road nor canal and the question of construction being made on the encroached canal by the Zila Parishad does not arise.

In view of the fact that this Public Interest Litigation raises intensely disputed question of fact, a proceeding, under Article 226 of the Constitution of India, is not an appropriate proceeding.

We, therefore, close this Public Interest Litigation with liberty to the petitioners to make appropriate representation to the



respondent No.2, namely, Principal Secretary, Bihar State Road Construction Department, Patna, expressing therein their grievances with regard to the alleged illegal construction of market complex by the Zila Parishad. If such a representation is made, respondent No.2, namely, Principal Secretary, Bihar State Road Construction Department, Patna, shall hold necessary enquiry into the matter and pass appropriate order(s). The whole exercise, so directed, shall be completed within a period of six weeks from the date of receipt of the representation. It will remain open to the respondent No.2 to pass any interim order during the period of enquiry. We also give liberty to the petitioners to institute, if so advised, appropriate suit in the Civil Court of competent jurisdiction for the remedy of grievances.

With the above observations and directions, this writ petition is disposed of.

**(I.A. Ansari, ACJ)**

**(Navaniti Prasad Singh, J)**

A.I./-

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