

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.607 of 2011

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Kanhiya Singh son of Sri Ramesh Singh, resident of village + P.O.
Parsawan, P.S. Pandarak, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Bihar.
3. The Collector, District-Patna, Bihar.
4. The Deputy Collector Land Reforms, Patna, Bihar.
5. The Circle Officer, Sadar, Patna.
6. The District Land Acquisition Officer, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar

For the Respondent/s : Mr. Sushil Kr. Singh, AC to G.P. 22

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

4 20-06-2016

Heard the parties.

The petitioner has filed the present writ petition seeking a direction to the respondents for payment of adequate compensation with suitable interest with respect to the lands bearing khata no. 189 plot no. 2,3 and 878, total area being 46 decimals situate at Mauza- Parsawan, District-Patna.

The learned counsel, appearing on behalf of the petitioner, submits that the lands in question belongs to the petitioner and it was acquired in the year 2006-07 by the State Government, but without payment of compensation to him. Therefore, according to him, an appropriate direction may be issued to the respondents for payment of compensation to the petitioner with suitable interest.

The matter has been contested by the respondents by filing a counter-affidavit on behalf of the respondent no. 3 and 6. The learned AC to G.P. 22, appearing on behalf of the respondents, by referring to the averments made specifically in paragraph-5 of the aforesaid counter-affidavit, submits that the lands in question has been acquired along with other plots of the

lands for National Thermal Power Corporation. He further submits that the lands in question has been accorded as “Gairmajarua Aam” in survey khatian. Hence, the claim of the petitioner for payment of compensation cannot be allowed.

A copy of the aforesaid counter-affidavit was served upon the learned counsel appearing on behalf of the petitioner way back on 21.09.2011, but despite passage of almost five years, no rejoinder affidavit has been filed on behalf of the petitioner disputing the averments made in the aforesaid counter-affidavit that the lands in question is a Gairmajarua Aam land.

In above view of the matter, this is apparent that the entire claims raised on behalf of the petitioner with respect to the lands in question are based on disputed question of facts.

It is well settled that on the basis of disputed questions of facts, the matter cannot be decided in a proceeding under Article 226 of the Constitution of India and no writ can be issued by the High Court in such circumstances.

For the reasons recorded above, the present writ petition is dismissed. However, liberty is granted to the petitioner to approach the civil court of competent jurisdiction for getting his right and title declared over the lands in question prior to its acquisition, after impleading all the necessary parties including the National Thermal Power Corporation. If the right and title of the petitioner is declared by the competent civil court with respect to the lands in question, prior to its acquisition, then he shall be at liberty to approach the appropriate authority for grant of an appropriate compensation for the lands in question.

(Birendra Prasad Verma, J)

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