

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10068 of 2013

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Akhileshwar Prasad Singh Son of Late Ramkeshwar Singh Resident of Village-
Dharout, P.O.:- Dharout, P.S. Makhdumpur, District- Jehanabad

.... Petitioner/s

Versus

1. The State Of Bihar, Through Commissioner-Cum-Secretary Water Resources (Irrigation) Department, Govt. Of Bihar, Patna
2. The District Magistrate, Jehanabad
3. Executive Engineer, Water Resources Division, Jehanabad
4. Aditya Narain Choudhary Son of Not Known Project Manager, Konark, Jehanabad
5. Tushar Goyel, Managing Director, Gajiyabad, R-10/100, Raj Nagar (U.P.) 0120-2962022

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjy Kumar Pandey
For the State Mr. Rajesh Kumar, AC to GP 28

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 10-02-2016

Heard the petitioner and the State.

A counter affidavit has been filed on behalf of respondent
no.3.

The application raises a grievance about illegal digging of
land(s) of the petitioner appertaining to plot nos. 3611, 3615, 5515 &
3638 causing damage to the crops as also the standing trees thereon.
The petitioner prays for grant/payment of compensation therefor.

In paragraph 12 and 13 of the counter affidavit, the State has
stated as under:-

“12. That it is stated and submitted that

the statement made in paragraph 10 of the writ application is wrong to the extent that without consent of the petitioner earth was excavated from his 1.63 acre land and crops and trees were destroyed. In fact, with consent of the petitioner some earth (12 ft. x 25 ft.x 7 ft.) was excavated only from his plot no.3615 and no tree or crop was destroyed. After completion of restoration work of canal the employees of the concerned contractor went to fill up the plot of the petitioner with earth but the petitioner forbade them and said that he would like to claim compensation for damages.

13. That with regard to the statement made in paragraph 11 of the writ application it is stated that respondents are still ready to fill up the land of the petitioner with earth. As such there is no question of payment of compensation.”

Annexure-A is the report submitted by the Revenue Karamchari indicating that part of the land appertaining to plot nos. 3611, 3638 & 515 was acquired by State Government for the purpose of digging and filling up the flanks of the road. The respondents tried to refill the land of the petitioner which was objected by him.

Seen thus, a serious dispute exists between the parties about the title as well as the actual loss, if any, sustained by the petitioner. The respondents have categorically stated that such digging of the land of the petitioner in plot no. 3615

was with the consent of the petitioner and when the respondents tried to refill the said part/portion of the land it was objected by the petitioner.

In the circumstances, no relief as prayed for in this writ application can be granted to the petitioner by invocation of extraordinary and discretionary writ jurisdiction of this Court leaving the petitioner to approach the appropriate forum/authority for redressal of his grievance.

The application is dismissed.

(Kishore Kumar Mandal, J)

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