

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20290 of 2014

Saryug Prasad Yadav @ Saryug Prasad, S/o Late Kailash Prasad Yadav, R/o Village- Sardh Majhguwa Tola, Basaudhar, P.S.- Sirdalla, District- Nawadah

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue and Land Reforms, Govt. of Bihar, Patna
2. The District Magistrate, Nawadah
3. The Sub-Divisional Officer, Rajuli Nawadah
4. The Block Development Officer, Sirdalla, Nawadah
5. The Child Development Project Officer, Sirdalla, Nawadah
6. The Circle Officer, Sirdalla, District- Nawadah
7. Panchayat Secretary, Sanda Maughgawa Gram Panchayat, Sirdallah Block Nawadah

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Advocate
Mr. Prakash Srivastava, Advocate
Ms. Anu Priyardarshani, Advocate
For the Respondent/s : Mr. P. K. Verma, A.A.G.(5)
Dr. Mankeshwar Tiwari, A.C.to A.A.G.-3

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 05-09-2016

The petitioner, in the present application, under Article 226 of the Constitution of India in the shape of *Public Interest Litigation* seeks, *inter alia*, a direction to the respondents-State of Bihar to protect *Sobda Ahar (Drainage)*, which according to the petitioner, is the only source of irrigation, for the entire village. It is the grievance of the petitioner that an Anganbari Kendra is being

constructed over it, which is going to adversely affect the irrigation facilities for the villagers of the said village.

2. A counter affidavit has been filed on behalf of the respondents-State of Bihar stating therein that the land, in question, appertaining to Khata No. 2095, Plot No. 11052 comprising total area of 200 acres recorded as “Anabad Sarvasadharan” has been described as “Nala” but with the efflux of time, nature of the plot has changed and has taken shape of *old parti land (vacant)*. It has further been stated that out of total 69 decimals, only 03 decimal of land adjacent to Plot No. 11051 (embankment of Plot No. 11006 (Ahar)) is being used as link road or from the village-Chamardih to Sarh-Mahugayan Road and has been parted for the construction of Anganbari Centre, after approval by the General Meeting of the concerned Gram Panchayat.

3. It has further been stated that Plot No. 11006 comprising of an area of 0.13 Acre is recorded “Ahar”, in the records of right, which is having no specific source of water rather its water level depends upon the rains and the water overflowed during rainy season, which is still source of irrigation.

4. Learned counsel appearing on behalf of the petitioner has disputed the fact covered in the counter affidavit that the land, *in question*, is in the nature of whole parted land. This disputed fact

cannot be gone into the present proceeding under Article 226 of the Constitution of India.

5. In view of the averments made in the counter affidavit, we do not intend to proceed any further in the present matter.

6. We, however, make it clear that the petitioner shall be at liberty to raise his grievance before the appropriate forum, if permissible to him, in accordance with law.

7. This application is, accordingly, disposed of.

(I. A. Ansari, CJ)

(Chakradhari Sharan Singh, J)

Vats/-

AFR/NAFR	NAFR
CAV DATE	
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