

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13454 of 2015

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1. Shiv Kumar Yadav @ Sardar Jee, Son of Ram Briksha Yadav,
resident of village - Kosut, P.S. - Dipnagar, Distt. - Nalanda, Vice
President Congress Committee, Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar,
Old Secretariat, Patna 800015.

2. The Principal Secretary, Road Construction Department,
Vishweshwaraiya Bhawan, Patna Govt. of Bihar.

3. The Bihar Urban Development and Housing Department, Vikas
Bhawan, Bailey Road, Patna Govt. of Bihar.

4. The District Magistrate, Nalanda.

5. Sub-Divisional Officer, Bihar Sharif, Nalanda.

6. Nagar Aukta, Nagar Nigam, Bihar Sharif, Nalanda.

7. Superintending Engineer, Bihar Rajya Jal Parshad, West Boring
Canal Road, Patna.

8. Tanuja Devi, W/o Ranjay Kumar Verma, Ward Aukta, Ward No.
44, Bihar Sharif Nagar Nigam, resident of Mohalla - Paharpur, Post
- Bihar Sharif, Distt. - Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Awadhesh Prasad Sinha, Adv.

For the State : Mr. Anjani Kumar, AAG

For respondent No.6 : Mr. P.K. Shahi, Sr. Adv.

For respondent No.7 : Mr. Ray Shivaji Nath, Sr. Adv.

Mr. Indrajeet Singh, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 23-08-2016

This application, under Article 226 of the Constitution of India, has been filed by the petitioner, in the shape of Public Interest Litigation, raising grievance against construction of Water Tower and Pump House over plot No. 811, situated at Kona Sarai, P.S.-Lahari Circle, Biharsharif, Thana No. 123, District-Nalanda, on the ground that the said construction is adversely affecting the widening of Biharsharif-Bakhtiyarpur road. The said Water Tower and Pump House are being constructed by the Biharsharif Municipal Corporation (respondent No. 6).

2. We have heard Mr. Awadhesh Prasad Sinha, learned Counsel, appearing on behalf of the petitioner, Mr. Anjani Kumar, learned Additional Advocate General, appearing on behalf of the State, Mr. P.K. Shahi, learned Senior Counsel, appearing on behalf of respondent No. 6, and Mr. Ray Shivaji Nath, appearing on behalf of respondent No. 7.

3. In compliance of the orders passed by this Court, a counter affidavit has been filed on behalf of the Principal Secretary, Road Construction Department,



Government of Bihar (respondent No. 2), stating therein, *inter alia*, that construction work of the Water Tower and Pump House is going on outside the proposed area of actual widening of road. It has been specifically averred in the said counter affidavit that the said construction will not affect the widening of the road; provided that Municipal Corporation does not make any further construction beyond the area on which the construction of Water Tower and Pump House are being presently raised.

4. Though it has been stated in paragraph 7 of the counter affidavit, filed on behalf of respondent No. 2, that No Objection Certificate (N.O.C.) has so far not been given by the concerned Department, i.e., Road Construction Department, Government of Bihar, to the Corporation, allowing them to construct the Water Tower and Pump House, it appears, from the said counter affidavit, that the Road Construction Department is not raising any objection to such construction of Water Tower and Pump House subject to the condition that no further area is used for the said purpose.

5. A counter affidavit has been filed, on behalf of Bihar Sharif Municipal Corporation (respondent No. 6), sworn by the Town Commissioner, stating therein that regard being had to paucity of drinking water and non-availability of the land, the construction of Water Tower and Pump House was

undertaken at the present site. It has further been stated that the Corporation undertakes not to utilize more land, i.e., 400 sq.ft. land of plot Nos. 810 and 811, for the purpose of drinking water facility and its mechanism.

6. Learned Counsel, appearing on behalf of the petitioner, has submitted that the entire land was acquired for the purpose of widening of the road and if the said land is allowed to be used for the purpose other than widening of the road, remaining land may also be used for such purposes.

7. Considering the submissions advanced on behalf of the petitioner as well as the affidavits on record, as indicated above, we close this proceeding with an observation that no further construction shall be made on the acquired land of Road Construction Department, Government of Bihar, for any other purpose than widening of the road, without seeking permission of this Court.

8. This application is, accordingly, disposed of.

(I. A. Ansari, CJ.)

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	05.09.2016
Transmission Date	N/A