

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.869 of 2015
IN
Civil Writ Jurisdiction Case No. 9746 of 2013**

- =====
1. The State of Bihar.
 2. The Chief Secretary, Govt. of Bihar, Patna.
 3. The Collector-cum-District Magistrate, District - Jamui.
 4. The Executive Engineer, Division I, Dept. of REO, Jhajha, District - Jamui.
 5. The Executive Engineer, Division II, Dept. of REO, Jhajha, District - Jamui.
 6. The Assistant Engineer, Dept. of REO, Jhajha, District - Jamui.

.... Appellants

Versus

1. Chandra Shekhar Singh. S/o Late Panna Singh. Resident of Village - Maheshwari, P.S.- Sono, District - Jamui.
2. Shri Nitish Kumar, Contractor. S/o Late Anil Prasad Singh. Resident of Village - Machiyar (Girish Talkies) Jamui, P.S.- Jamui, District - Jamui.

.... Respondents

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Appearance :

For the Appellants : Mr. Ravi Verma, AC to GP-4
For the Respondents : Mr.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 31-07-2017

Yet another case where frivolous appeal has been preferred by the State. The Court can understand why the appeal has been filed because by virtue of the order 12.09.2014, the learned single Judge has held in categorical terms that what the State authorities did to the private raiyati land of the petitioner, who is private respondent in the Letters Patent Appeal, was out and out illegal. If such an action was the conduct of any individual, the state agencies themselves would have come down very heavily. However, from a reading of the detailed order passed by the learned single



Judge, it seems that every effort was made not only to justify their decision to make a road on the private land of the private respondent but also somehow create doubt even on the revenue records where the right, title and interest of the private respondent was reflected and entered from a very very long time.

The scheme in the Pradhanmantri Gramin Sadak Yojna does not envisage any kind of forceful possession or acquisition or compensation as such. These are roads which are required to be constructed on already land of existing paths which are traditionally used by the villagers and if any part and parcel of the land was required to be included in giving width or alignment then such land has to be obtained with due consent of the land holder. Merely because the State has the might, it cannot run wild over any individual's rightful possession.

The learned single Judge has passed a very detailed and well considered decision. The malafide of action on the part of the decision making both on behalf of the District Magistrate as well as the Circle Officer's report has been dealt with in detail. It is a clear cut case where not only an order of restraint passed by the High Court was given a go bye and a rough short of action has been taken, which directly had a bearing upon the plot of the private respondent especially bearing Plot No. 1572.



The learned single Judge, therefore, rightly passed an order to restore the original position unless an amicable solution was arrived at with the private respondent. We are sure that if the District Magistrate shows grace, if he has any, even at this stage, then the private respondent would be equally magnanimous, otherwise the order, which has been passed by the learned single Judge, has to be complied with as he has committed no infirmity in law. In fact, if the learned single Judge has not reached out in favour of the private respondent, who was the petitioner before the writ Court, it would have been a case of failure of justice.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01.08.2017
Transmission Date	N/A

