

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14505 of 2014

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1. Marchhiya Devi W/o Yogendra Yadav
2. Md. Bahab Ansari S/o Late Md. Abash Ansari
3. Mandal Yadav S/o Saryug Yadav All are Resident of Village Ebrahimpur, P.S. Kinjer, District Arwal.

.... Petitioner/s

Versus

1. The State of Bihar represented through it's Chief Secretary Old Secretariat Building, Patna.
2. The Principal Secretariate, Rural Development, Govt. of Bihar, Patna.
3. District Magistrate, Arwal (Bihar).
4. Sub Divisional Magistrate, Arwal (Bihar).
5. Circle Officer Kurtha, District Arwal (Bihar).
6. Executive Engineer, Bihar Bridge Construction Division, Gaya.
7. Land Acquisition Officer, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tilak Sao
For the Respondent/s : Mr. Rakesh Ranjan AC to G.P-22
Mr. Anand Kumar

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

5 14-11-2017 Heard learned counsel for the petitioners as well as learned counsel for the State and learned counsel for the Bihar Bridge Construction Division , Gaya.

The grievance of the petitioners is that their lands were taken for construction of approach road and bridge without initiating any valid acquisition proceeding and no compensation was paid to them though they have already been dispossessed from their lands.

Counter affidavit has been filed on behalf of the



respondent no. 6 and similarly, a separate counter affidavit has been filed on behalf of respondent no. 3 to 5.

The stand of respondent no. 6 is that prior to construction of approach road and bridge consent for construction was taken from the petitioners and other villagers before local M.L.A and petitioners as well as other villagers gave their consent to donate their lands free of costs for being used for the construction of the approach road and bridge. Thereafter, in a general meeting, a decision was taken by the petitioners as well as villagers that they will donate their respective lands in favour of the Hon'ble Governor, Bihar for construction of approach road and bridge. Subsequently, an agreement to the above stated effect was prepared on stamp paper of Rs. 1000/-. The aforesaid agreement was signed by several persons including the family members of the petitioners and after that the construction was made. Further stand of respondent no. 6 is that the petitioner no. 2 got initiated proceeding under section 144 of the Cr.P.C being Case No. 1157 of 2014 for restraining the contractor but he failed to appear in the aforesaid proceeding and subsequently, the aforesaid proceeding was dropped. However, respondent no. 6 admitted, in the counter affidavit that the acquired lands belong to the petitioners and no compensation has been paid to them.



The stand of respondent nos. 3 to 5 is that the Bihar Bridge construction Corporation Ltd, Patna had not made any requisition for acquisition of the lands in question senior project Engineer of the Corporation reported that the lands in question were voluntarily donated by the petitioners and other villagers and, therefore, respondent nos. 3 to 5 have no concern with the above stated state of affairs.

It is an admitted position that the lands in question belong to the petitioners and they have been dispossessed from their lands without any valid acquisition proceeding and up till now they have not been paid any compensation amount by the concerned authorities. It is the case of the respondents that petitioners and other villagers voluntarily donated their lands for construction of approach road and bridge and unregistered agreement, was executed but admittedly, the aforesaid unregistered agreement does not bear the signature of the petitioners and moreover, according to Section 123 of Transfer of Property Act, the gift of immovable property can only be effected by a registered instrument signed by or on behalf of the donar and attested by at least two witnesses. Admittedly, in the present case unregistered agreement was prepared and, therefore, in my view, on the basis of unregistered agreement, the Bihar Bridge



Construction Division, Gaya did not get any right to take possession of lands of the petitioners. However, it is informed that the approach road and bridge have already been constructed. Therefore, in the aforesaid circumstance, I think it proper to direct the respondent nos. 3, 6 and 7 to ensure the payment of adequate compensation to the petitioners in accordance with law by taking appropriate steps for rectification of the mistake committed by them earlier. The compensation amount shall be determined and payment of compensation amount shall be ensured within six months from the date of receipt/ production of a copy of this order.

In the aforesaid manner, this writ petition stands disposed of.

(Hemant Kumar Srivastava, J)

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