

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7223 of 2011

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1. Ram Dulari Devi W/O Anugrah Narayan Prasad R/O Vill.- Painapur, P.S.-
Bikram, Distt.- Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Rural Works Department,
Govt. Of Bihar, Patna
2. The District Magistrate Patna
3. The District Land Acquisition Officer Patna
4. The Circle Officer Bikram , Patna
1. 5. The Executive Engineer Rural Works Department, Patna Division, Patna
2. 6. The Assistant Engineer Rural Works Department, Works Sub. Division,
Bikram, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhola Prasad
Mr. Mukesh Kumar Jha
Mr. Amarnath Singh

For the Respondent/s : Mr. Krishna Chandra

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL JUDGMENT
Date: 09-02-2017**

Reply to the supplementary counter affidavit, filed on
behalf of respondent nos. 2 and 3, is filed on behalf of the petitioner.

Let it be kept on record.

2. Heard learned counsel for the petitioner as well as
learned AC to AG for the State.

3. This writ petition has been filed for issuance of
direction to respondents to pay compensation to the petitioner against
acquisition of her land of Khata No. 33 containing Khesra No. 579



Mauza Baigwan which is said to have been acquired for construction of road under Pradhan Mantri Gram Sarak Yojna.

4. It would appear from perusal of Para-4 of the writ petition that petitioner happens to be owner of the land appertaining to Khata No. 33/ plot no. 579 measuring an area of 26 decimals situated in Mauza Baigwan, Circle- Bikram, District-Siwan, as she had purchased the aforesaid land through registered sale deed and after purchasing the aforesaid land, she came in physical possession over the same. It would further appear from perusal of the present writ petition that under Pradhan Mantri Gram Sarak Yojna, a road was constructed and 15.47 decimals of land of plot no. 579 was taken for construction of the aforesaid road. The aforesaid land of petitioner was neither donated by her nor acquired by the State and neither any compensation was paid to the petitioner in respect of the aforesaid land. The petitioner gave a petition on 27.09.2010 to the Public Information Officer, Patna, raising her grievance in respect of her land and prayed for grant of compensation of the aforesaid land. Thereafter, on the direction of Circle Officer, Bikram, Patna, the disputed plot was measured and it came to light that 15.47 decimals of land of plot no. 579 has been used in construction of the road. However, no compensation was paid to the petitioner and, thereafter, she filed the present writ petition.



5. Counter affidavit has been filed on behalf of the respondent nos. 2 and 3 and in the aforesaid counter affidavit, the use of 15.47 decimals land of plot no. 579 has not been devided nor the ownership of the petitioner regarding the aforesaid land was denied but a specific stand has been taken on behalf of the State that the road in question was constructed on existing Kachha road which was being used by local villagers for near about 10 years. Furthermore, the State has taken stand that at the time of construction of the aforesaid road, the petitioner did not raise any objection but, later on, she claimed compensation regarding the aforesaid land.

6. By filing supplementary counter affidavit, the State has brought rules and guidelines of Pradhan Mantri Gram Sarak Yojna.

7. Para- 6.12 of the aforesaid rules and guidelines, says that it will be the responsibility of the State Government/ District Panchayat to ensure that the lands are available for taking up the proposed road works. A certificate that land is available must accompany the proposal for each road work. It must be noted that Pradhan Mantri Gram Sarak Yojna does not provide funds for land acquisition. This does not, however, mean that acquisition cannot be done by the State Government at its own cost. The State Government may also lay down guidelines for voluntary donation, exchange or other mechanisms to ensure availability of land. The process of



making land available for the road works should sub-serve the common good and also be just and equitable. The details of land made available should be reflected in the local land records to avoid dispute.

8. The above stated guideline goes to show that it is the duty of the State Government/ concerned Panchayat to select the land and, furthermore, the aforesaid guideline goes to show that the Central government has not provided any funds for land acquisition under Pradhan Mantri Gram Sarak Yojna but the aforesaid guideline clearly goes to show that the State Government may acquire the land for construction of road under the above stated scheme. Therefore, it is obvious that there is no hurdle before the State Government to acquire the land for construction of road under the above stated scheme. Paras 6.12 and 6.13 of the aforesaid guidelines suggest that it is State Government as well as local Panchayat including officials, who are responsible for selecting the land for construction of the road under the above stated scheme. Therefore, even if it is assumed for the sake of convenience that petitioner had not raised any objection in respect of construction of the road while the road was being constructed on her land, then also it cannot be said that the local panchayat officials of the State Government were not responsible for selecting the land of petitioners for construction of road under the above stated scheme. Moreover, as I have already stated above that in the year 2010, the



petitioner had filed a petition before Public Information Officer, Patna (Annexure-4) raising her grievance and the contents of aforesaid petition go to show that she was under impression that her land had been acquired. Moreover, prior to filing of the aforesaid petition, on the basis of petition of the petitioner, the measurement of her land was got done by the circle officer, who found that the land of petitioner has been used in construction of the road.

9. Admittedly, neither the land of the petitioner was acquired nor any no compensation has been given to the petitioner for using her land. In the present writ petition, the petitioner has not prayed for restoration of her possession on her land rather she has claimed only compensation of her land and, therefore, in my view, the petitioner has got every right to get compensation in respect of her land which has been used in construction of the road under Pradhan Mantri Gram Sarak Yojna..

10. On the basis of aforesaid discussions, this writ petition is allowed and it is ordered that respondent nos. 1, 2 and 3 shall make payment of adequate compensation to the petitioner at the rate as of prevailing at the time of making payment to her within three months from the date of receipt/ production of a copy of this order.

(Hemant Kumar Srivastava, J)

N.K/-



AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2017
Transmission Date	27.02.2017

