

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9474 of 2014

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Suresh Prasad, S/o Late Ram Nandan Prasad, resident of village - Nasriganj, P.O. Digha Town, P.S. Danapur, District – Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through Director, Land Acquisition, Department of Revenue and land reforms, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Special Land Acquisition Officer, Flood Protection Scheme, Patna.
4. The Executive Engineer, Ganga Sone Flood Protection, Digha, Patna.
5. Principal Secretary, Water Resources Department, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar Singh and Mr. Prabhat Kumar, Advocates
For the State	:	Mr. Chitranjan Sinha, PAAG 2 Mr. Himanshu Kumar Akela, A.C. to PAAG 2

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 16-02-2017

Heard learned counsel for the parties.

Pursuant to previous orders, the Principal Secretary, Department of Water Resources and the Special Land Acquisition Officer, Patna Flood Protection Project are present in Court. The respondent no. 4, though not directed to appear is also present in Court.

The petitioner has moved the Court for paying of compensation for his private land which was used by the State authorities for Flood Protection work.

After hearing the matter on various occasions and



filing of pleadings by both the sides, ultimately, the admitted position is that 16.33 decimals of land of the petitioner have been used for laying jio bag pitching. It is also an admitted position that such laying is for the purposes of protection from flood from the river Ganga.

The Principal Secretary assisted the Court and informed that with regard to Flood Protection Work, the same is of two natures. Firstly, one in which permanent structure like embankments and spurs are made which are supposed to be there indefinitely. Secondly, there are occasions where due to the shifting course of the river, temporary jio bag pitching is done so that the river does not erode any further area and depending on the course of the river in the forthcoming years, the same may either be required to be kept for a further period and if the river has moved a distance, the same becomes redundant and the owners of those lands are free to utilize the land for their own purpose, for which the Government does not object. However, he fairly submitted that there is no clear cut policy of the Government and on a case to case basis decision is taken on the basis of ground realities. He submitted that as a matter of policy, in general terms shall be formalized as, in principle, it has been decided that even in jio bag pitching or any temporary arrangement made where the same is required for an indefinite period, the land, if any, required for such purpose shall either be



acquired or taken on perpetual lease, and with regard to the portion of the private land which may be temporarily needed for such flood protection, on a case to case basis and year to year basis, the actual compensation for the crops or any other utilization, shall be made admissible. In the present case, he takes a categorical stand that a Technical Committee shall be set up to go into the aspect as to how much of the land out of 16.33 decimals is needed on a perpetual basis for which the approach of the Government would be different and how much would be required as a temporary basis in view of the shifting course of the river Ganga.

The Court finds such stand to be reasonable.

In view of the submissions made by the Principal Secretary, the Court does not deem it necessary to keep the matter pending.

Accordingly, the writ petition stands disposed off with a direction to the respondent no. 5, to complete the exercise of getting the land of the petitioner, which has been used for the jio bag pitching, determined with regard to how much is required on a perpetual basis and what portion would be there only for a limited period depending on the course of the river Ganga. The said exercise be completed within two months and depending on such determination, in which the petitioner shall also be allowed to take



part, the amount payable to the petitioner, both for the portion of perpetual lease as well as for the damage to his crops, as may be assessed, be paid to him within the next four weeks thereafter.

Rule in the matter of contempt against the Principal Secretary, Department of Water Resources, Government of Bihar, Patna is dropped and personal appearance of the officers stands dispensed with.

(Ahsanuddin Amanullah, J.)

P. Kumar

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