

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5567 of 2016

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Vijay Prakash, aged about 70 years, Son of Late Hargovind Singh, Village- Aripur,
P.S.- Makhdumpur, Distt.- Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Minor Water Resources Department, Government of Bihar.
3. The Principal Secretary, Fishery Department, Government of Bihar, Patna.
4. The District Magistrate, Jehanabad.
5. The District Fishery Officer, Jehanabad.
6. Anchal Adhikari, Makhdumpur Anchal, Palatganga (Makhdumpur).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
For the Respondent/s : Mr. Kaushal Kumar Jha, AAG- 14

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-05-2017

Petitioner has filed this petition in public interest and the relief claimed is that Chanokhar Pokhara situated in village Dharaut falling under Makhdumpur Block of Jehanabad, which is settled as a Jalkar and which has been used for years together for irrigation purpose of the villagers should continue to be used for irrigation purpose and *inter alia* contending that of late the area is being settled for use as a Jalkar and settled in favour of certain Cooperative Societies for grant of fishing right consequently affecting the rights of irrigation to the villagers, this writ petition has been filed primarily



claiming a relief that the irrigation facility provided earlier should be restored and should not be curtailed. Certain prayers are also made to ensure that the fishing right does not adversely affect the right of irrigation nor is the water in the area utilized in a manner so that it adversely affect the health of the public at large due to use of chemicals.

2. On notice being issued, respondents have filed a reply and admit the position as far as use of the area for irrigation is concerned and they point out that the facility for irrigation was stopped as the villagers and other persons were found to have extended the boundary and constructed certain obstructions by creating boundary walls. Because of this, the facility of irrigation was stopped.

3. However, a rejoinder affidavit has been filed by the petitioner and in Paragraph 6 of the same the petitioner asserts and undertakes that the villagers will use the water only for the purpose of irrigation and shall not change the boundary or structure of the pond in any manner whatsoever.

4. Once the petitioner as a representative of the villagers has given this undertaken, the respondents should restore grant of irrigation facility to the villagers from the pond, as was being done earlier. That apart if the pond is being used for the purpose of



granting fishing rights to certain Cooperative Society, it should be ensured that the fishing rights are exercised in a manner that it would not affect adversely the use of the water by the villagers nor will the water be polluted in a manner so as to make it unfit for irrigation. The petitioner shall have liberty to point out in case of any pollution problem in the pond by filing an application before the Statutory Authorities of the Pollution Board who shall look into this aspect of the matter. For the present, directing the respondents to grant irrigation facility to the petitioner from the pond in question on the basis of undertaken given by the respondents as contained in Paragraph 6 of the petitioners’ rejoinder affidavit, this petition stands disposed of.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
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