

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3761 of 2010

=====

Prem Chand Singh, son of Late Parash Nath Singh, resident of Village- Habaspur,
P.S. Sigori, District- Patna (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna (Sri Anup Kumar Mukherji)
2. Principal Secretary, Rural Works Department, Bihar, Patna (Mr. Shashi Shekhar Sharma)
3. Engineer-in-Chief, Rural Works Department, Bihar, Patna (Mr. Janak Ram)
4. Chief Engineer, Rural Works Department, Bihar, Patna (Mr. D.D. Choudhary)
5. Superintending Engineer, Rural Works Department, Patna Circle, Patna (Mr. Chandra Bhushan Prasad Sinha)
6. District Magistrate, Patna (Mr. Jitendra Kumar Singh)
7. Executive Engineer, Rural Works Department, Work Division, Patna (Mr. Ashok Kumar Singh).
8. Sub Divisional Magistrate, Paliganj, Patna (Mr. Santosh Kumar)
9. Circle Officer, Paliganj, Patna (Mr. Sumant Nath)
10. Ram Kumar Singh (Contractor), son of Late Dev Narayan Singh, permanent Address:- Village- Masaurhi Kala, P.O.- Mathiapar, District- Patna. At present:- Vijay Nagar (Shiv Puram) P.S.- Danapur, District- Patna (Bihar)

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ajit Kumar, Advocate

For the Respondent/s : Mr. Md. Faiz Ahmad, A.C. to G.P. 14

=====

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
ORAL JUDGMENT

Date: 14-02-2017

The grievance of the petitioner in the writ application
was that road is being laid upon the *raiya* land of the petitioner. On



6th of May, 2010 this Court passed the following order in the writ application filed by the present petitioner:-

“Having considered the matter, in my view, as noted above, the only direction this Court can give is that the construction of the road shall be stopped forthwith in all aspects. The Collector-cum-District Magistrate would have to find time and himself survey the area. Before doing that he shall send a Government Amin, who would survey the area and the plot and point out whether any part of petitioner’s land is being encroached upon or being utilized for the purpose of construction of the road. Upon such measurement and survey, which should be made after due notice to the petitioner, if the Collector-cum-District Magistrate is satisfied that the petitioner’s land is not being encroached upon in any manner he would direct resumption of work but till such time he records his satisfaction, the work shall remain stayed.”

In pursuance of the said direction, the Anchal Amin visited the site on 16th of November, 2010 and found that no land of the petitioner was encroached for the purpose of construction of road under Mauza- Hawaspur, Thana No. 273, Khata No. 68, Plot Nos. 1,2,3 and 12.

It is also pointed out that Circle Officer, Paliganj, Patna also himself inspected the site and did not find any encroachment over the land in question belonging to the petitioner and submitted report to the Senior Deputy Collector, Patna. The District Magistrate thereafter sent a letter to Sub-Divisional Officer, Paliganj on 23rd of November,



2010 to verify the report of the Circle Officer dated 18th of November, 2010 to make a clear comment on the report. The Sub-Divisional Officer, Paliganj also agreed with the report of the Circle Officer and thereafter, the District Magistrate passed an order on 1st of December, 2010 that the land-in-question was not encroached for the purpose of construction of road.

Since the process of identification of the land has been carried out by the Revenue Officials, I do not find that there is any intentional and wilful disobedience of the orders passed by this Court. The only thing which can be said is that there is no notice to the petitioner but that fact alone will not enable the petitioner to dispute the process of measurements undertaken by the Revenue Officials. Still further such show-cause was filed before this Court on 29th of November, 2011. The petitioner has not filed rejoinder counter affidavit to such show-cause.

In view thereof, I do not find that the petitioner can be permitted to allege that the order of this Court has not been complied with.

Consequently, the present Contempt Petition is disposed of. However, it shall be open to the petitioner to avail the remedy of Civil Suit in case he believes that his land has been taken by the State for the construction of road. Such disputed question of



fact as to whether the land of the petitioner has been taken by the State for the purpose of construction of road shall be decided by the Civil Court on the basis of evidence which shall be produced by the parties in accordance with law.

(Hemant Gupta, ACJ)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	17.02.2017
Transmission Date	

