

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 13631 of 2014

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1. Pandey Udayachal Prasad, Son of Late Pandey Sheo Nandan Prasad, R/o Road No.3, Prabhat Nagar, Gobarsahi, Bhagwanpur, P.S.- Sadar, District- Muzaffarpur.
 2. Bhola Sah Son of Late Radha Krishna Sah, Resident of Road No. 3, Prabhat Nagar, P.S. Sadar, Bhagwanpur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department, Government of Bihar, Patna.
2. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Muzaffarpur.
5. The Chief Engineer, Rural Development Department, Government of Bihar, Patna.
6. The Executive Engineer, Division No. 1, Rural Development Department of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.
For the State : Mr. Sarvesh Kumar Singh, A.A.G. 13
Mr. Intekhab Hassan, A.C. to A.A.G. 13

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 23-02-2017

Heard learned counsel for the parties.

Pursuant to order dated 17.02.2017, the Deputy
Secretary, Rural Development Department, Government of Bihar,



Patna and Executive Engineer, Rural Works Department, Muzaffarpur Division-1, are present.

Counter affidavit has been on behalf of the Rural Development Department as well as the respondents no. 1 to 5. A supplementary counter affidavit has also been filed on behalf of respondents no. 1 to 6.

At the very outset, learned counsel for the State submitted that there is no post of respondent no. 6. The said statement has been made on oath in a counter affidavit filed today. The Court would like to express its displeasure in the manner the writ petition has been filed and further in the manner it has been assisted on 17.02.2017 when in the presence of learned counsel for the petitioners, the Court had directed for the personal appearance of the respondent no. 6. It is the sole duty of the petitioner(s), who approaches the Court and files a writ petition to be sure of the person(s) who are made respondents/opposite parties. The responsibility is more when in their presence, the Court may direct for the appearance of the officer(s) under special circumstances.

In the present case, the Court was persuaded to call for the appearance of the respondent no. 6, in view of the issue involved. However, as has turned out, the Court had directed for appearance of a person who does not exist.



In view of the aforesaid, in the considered opinion of the Court, the petitioners are liable to pay cost of Rs. 5,000/- to be deposited with the Patna High Court Legal Services Committee within one week from today. If the same is not done, the Registry shall place the matter before the Bench for appropriate orders.

The grievance of the petitioners was that the road being constructed in their locality was not as per the requirement of law relating to maintaining the level of the road.

In the counter affidavit filed on behalf of the respondents no. 1 to 5, at paragraphs 19 and 21, the following has been stated:

“19. That it is further stated that the grievances with respect to the height of the road vis-à-vis the dwelling units of the area would be fully taken into consideration while preparing the new D.P.R.

XXXXX

21. That it is further stated that the height of the proposed road was prescribed in reference to the adjacent main road with a view to make the new construction having the same level as that of the main road. The height of the road was prescribed to be raised to 13.5 inches only to make it to the level of the main road, so that water may not flow and accumulate in the proposed road. However, now the agreement has been terminated and hence a new D.P.R. is to be prepared for the fresh Construction.”

Learned counsel for the State has also submitted that on coming to know about the road in question being constructed, not



as per the law, the work was stopped and the contract/agreement with the contractor has also been terminated.

Having regard to what has been stated on affidavit, as quoted hereinabove, the writ petition stands disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
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