

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.5456 of 2013

IN

Civil Writ Jurisdiction Case No. 15744 of 2011

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Braj Bhushan Singh, S/O Late Hargauri Singh, Resident of Village Sakarpura, P.S. Bakhar, District Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. District Magistrate, Khagaria namely Sanjay Kumar Singh.
3. Sub Divisional Officer, Khagaria.
4. Anchal Adhikari, Khagaria.
5. Civil Surgeon-Cum-Chief Medical Officer, Khagaria.
6. Executive Engineer, Building Construction Department, Khagaria Circle, Khagaria.
7. Amit Kumar, S/O Not Known, Resident of Village and P.O. Bachauta, P.S. Khagaria, District Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Uday Singh, Advocate

For the Respondent/s : Mr. Parth Sharthi, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 29-03-2017

On 24.10.2011, Civil Writ Jurisdiction Case No.15744 of 2011 was decided by this Court and the District Magistrate was directed to cause spot inspection to ascertain whether the construction/expansion of the Health Sub-Centre in village Barai within Khagaria Block in the district of Khagaria is being made on the part of petitioner's *raiya* land, undertake measurement and in case, the District Magistrate comes to the conclusion that the construction is made on petitioner's land, then after undertaking calculation, compensation was to be determined else it was stated that the District Magistrate shall be free to pass appropriate



orders.

From the counter affidavit filed by respondent no.2, it is seen that by a detailed submission it is indicated that the petitioner is not entitled to any compensation, the report goes to show that the land does not belong to the petitioner and various justifications have been given to say that the petitioner is not entitled to any compensation.

Petitioner by filing a supplementary affidavit and documents of *Khata* and valuation has tried to indicate that for the portion of the land in Land Acquisition Case No.23/77-78, compensation was granted to the petitioner and, therefore, the contention and findings recorded by the District Magistrate rejecting the claim is not proper.

On a perusal of the order passed in the writ petition it is clear that the only direction to the Collector was to cause spot verification as to whether the petitioner's land is found to have been used for the purpose of construction of Health Sub-Centre. The District Magistrate, i.e. respondent no.2, in his detailed counter affidavit filed has given various justifications along with documents filed (Annexures-A, B, C and D) to indicate to this Court that the land does not belong to the petitioner and he is not entitled for any compensation.

On the contrary, petitioner disputes the aforesaid fact and tries to establish by his supplementary affidavit that he has been paid



compensation for some portion of the land and, therefore, there is no justification in denying compensation for the remaining portion.

Now from the facts that have come on record, it is clear that there are serious disputes between the parties with regard to ownership and the right of the petitioner over the land in question and this dispute, which has not been adjudicated in an appropriate forum by any competent statutory authority or Court of law, cannot be adjudicated in these proceedings for contempt and thereafter relief granted to the petitioner. As the only direction in the writ petition was to the District Magistrate to make verification after spot inspection and decide the claim of the petitioner for compensation. The tenability, justification or legality of the action taken by the District Magistrate cannot be enquired into or adjudicated in these contempt proceedings.

That being so, it is not a fit case where action for contempt can be initiated. In case, the petitioner feels that the Collector has committed an error or illegality in taking a decision, it gives a fresh cause of action to the petitioner to challenge the action of the Collector, but by adjudicating *inter se* dispute now in these proceedings for contempt, this Court cannot grant any benefit to the petitioner. The dispute as is now made out from the materials available on record cannot be adjudicated in a contempt proceeding. It can only be dealt with in an appropriate proceeding as is permissible in law and therefore,



this Court does not see any reason to make any interference into the matter. Contempt proceedings are, therefore, dropped and liberty granted to the petitioner to challenge the action afresh in accordance with law.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

