

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9535 of 2015

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1. Jugeshwar Mandal Son of Late Nathuni Mandal,
 2. Srichand Mandal, Son of Late Awadh Mandal,
 3. Bahadur Mandal, Son of Bhagat Mandal,
 4. Muneshwar Singh, Son of Sri Ramdeo Mahto,
 5. Ram Autar Mahto, Son of Late Mahadeo Mahto, null
 6. Ram Prasad Mahto, Son of Sri Mahavir Mahto,
 7. Nakshtra Mandal, Son of Late Bhagat Mandal
 8. Jai Prakash Mahto, Son of Sri Munni Lal Mahto, null
 9. Sri Lal Mandal, Son of Late Awadh Mandal,
 10. Raudi Mandal, Son of Late Ethu Mandal,
 11. Ganesh Mahto, Son of Late Munni Lal Mahto, All residents of village - Hariyari, P.S. - Phulparas, Block - Phulparas, Sub - Division - Phulparas, District - Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Irrigation Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief, Irrigation Department, Govt. of Bihar, Patna.
4. The District Magistrate, Madhubani.
5. The Special Land Acquisition Officer, Western Koshi Canal, Darbhanga.
6. The Executive Engineer, Western Koshi Canal Division, Jhanjharpur, District - Madhubani.
7. The Assistant Engineer, Western Koshi Canal Sub-Division, Jhanjharpur, District - Madhubani.
8. The Junior Engineer, Western Koshi Canal Sub-Division, Jhanjharpur, District - Madhubani.

.... Respondent/s

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Appearance :

For the Petitioners : Mr. Rajiv Kumar Verma, Sr. Advocate
Mr. Prashant Sinha, Advocate

For the State : Mr. Himanshu Kr. Akela, AC to PAAG-2

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 28-04-2017

It is the case of the petitioners in this Public Interest

Litigation that in the year 2007, the State Government implemented



and proposed to have a project, namely, Gorhiyari Minor Canal project is for constructing a water canal from Sirjauliya sub-canal which part of Koshi canal.

It is also the case of the petitioner that the proposed project passes through a populated area of Hariyari village, where the petitioners are residing since century. If the project is executed, the villagers would be dislocated from their house and apart from that they will have to lose their fertile land and costly trees, as indicated in para 5 of the writ petition would be destroyed. It is also averred that the project, if implemented, would create ecological problem. It is also stated that the project, if implemented, would block a Pradhan Mantri Gramin Sarak Yojna, which is used for public transportation and this would create in smooth passage of public transport for the villages. Accordingly, contending that a mandamous should be issued for implementing the project by shifting the route of the canal to at least 150-250 meters from the proposed site, this writ petition has been filed.

A notice being issued and Respondent No.5 in a detailed reply said that land acquisition proceedings were initiated. Notice under Section 5A was issued on 05.11.2007. All the statutory procedures were done and the Special Land Acquisition Officer has completed the acquisition process, possession certificate has been



issued and award passed. It is stated that now as the project is being implemented after acquisition of land in accordance with law, the grievance of the petitioner cannot be looked into.

Having considered the rival contentions, we are of the considered view that merely because the project in question creates certain inconveniences and has the effect of dislodging the petitioners, that by itself is not a ground for this Court to exercise its extra ordinary jurisdiction and make intervention in a petition under Section 226 of the Constitution. When such a project is implemented by the government after obtaining technical advise, conducting feasible study and various technical aspects of the matter looked into. Mere inconvenience to the petitioners cannot be a ground for intervention by a court exercising limited jurisdiction in a petition under Article 226 of the Constitution. It is for the petitioners to approach the government concerned, seek rehabilitation or any other benefit that may be permissible under law or it is for the government to consider the grievance of the petitioners and explore the feasibility of shifting of the canal, as prayed for.

In our considered view, the claim made and the grievance canvassed in this writ petition is beyond the jurisdiction of this court in exercise of power under Section 226 of the Constitution.

Granting liberty to the petitioners to take up the issue



with the competent authority of the State Government, we dispose of the matter.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Narendra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	06.05.2017
Transmission Date	

