

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23828 of 2013

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Shiv Nandan Sahu @ Shivji Sah S/o Late Jageshwar Sah Resident of Village
Mahisari Bhawanipur, P.S. Singhwara, District Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Development Govt. of Bihar,
Patna
2. The Collector, Darbhanga
3. The Sub-Divisional Officer, Sadar Darbhanga
4. The Anchaladhikari, Singhbara Anchal, District Darbhanga
5. Mukhiya, Gram Panchayat Raj Mahisari Bhawanipur, P.S. & Anchal
Singhwara, District Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. AMARENDRA NARAYAN

For the Respondent/s : Mr. PRASHANT PRATAP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 11-08-2017

Heard Mr. Amrendra Narayan, learned counsel
for the petitioner and Mr. Prashant Pratap, learned G.P.2 for the State-
respondents.

The present writ application has been filed for
restraining the respondent authorities from constructing pucca RCC
road or utilizing any portion of petitioner's raiyati land appertaining to



Plot No. 3266, Khata No. 474, measuring an area of 6 decimals and Plot No. 3267, Khata No. 473, measuring an area of 5 decimals in revisional survey situated in Mauza – Bhawanipur, Anchal – Singhwara, District – Darbhanga.

It is submitted by learned counsel for the petitioner that the petitioner resides outside the State and in his absence and without his consent, the road has been constructed on the petitioner's land.

However, a counter affidavit has been filed on behalf of respondent nos. 2 to 4, taking a stand that the encroachment has been removed from the land in question on 17.07.2015.

It is further submitted by learned counsel for the petitioner that the brick soiling made on 55 sq. feet land of the petitioner, has not been removed completely.

Mr. Prashant Pratap, learned counsel appearing for the respondents submits that the brick soiling made on 55 sq. feet land of the petitioner was removed on 17.07.2015 after getting the area measured by the Amin. The report of the Amin has been brought on record as part of Annexure-A series, for which statement has been made in paragraph 4 of the counter affidavit. The relevant portion of paragraph 4 of the counter affidavit reads as follows:-

“It is further submitted that in connection to



the construction of pucca R.C.C. Road of the same, the petitioner has raised his objection that the raiyati land of the petitioner belonging to khesra No. 4689 (New) has been encroached and in the same, into the present extent, the present respondent, the Circle Officer, Singhwara, Darbhanga has adopted the due process by way of making proper verification of the spot and came to know that the land of the petitioner and the land recorded in the name of Anabad Bihar Sarkar is adjacent to each other and by way of using the very path, the Kharanja was made upon the little portion measuring an area of 55 sft. i.e. $\frac{1}{2}$ dhurs of the petitioner's land and accordingly in the immediate presence of the villagers the said encroached portion i.e. $\frac{1}{2}$ dhur has been removed on 17.7.2015 of which photographs has also been taken (Annexure-B series) and hence this writ application has been filed before your Lordship."

Considering the fact that the petitioner also admits that the encroachment has been removed from major portion of the land of the petitioner, hence, this Writ application has become infructuous and accordingly, it is disposed of.



So far as the dispute with regard to the part of the land of the petitioner is concerned, the petitioner claims that the encroachment has not been removed, it is expected from respondent no. 4, Circle Officer, Singhwara to get the land of the petitioner demarcated provided he submits the required fee for the same within a period of three months in presence of the local Panchayat Mukhiya and the petitioner.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.09.2017
Transmission Date	NA

