

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15889 of 2018

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Niraj Kumar Sinha, aged about 47 years, Son of Nandlal Baidya,
Resident of Village-Chorabay, P.O.-R. Itahari, P.S.-Amarpur,
District-Banka, PIN-813101.

.... Petitioner/s

Versus

1. The Principal Secretary, Panchayati Raj Department,
Government of Bihar, Patna.
2. The Principal Secretary, Registration, Rural Development
Department, Government of Bihar, Patna.
3. The District Magistrate, Banka.
4. The Sub-Divisional Magistrate, Banka.
5. The Deputy Collector Land Reforms, Banka.
6. The Block Development Officer, Amarpur, Banka.
7. The Circle Officer, Amarpur, Banka.
8. The Panchayat Secretary, R. Ithari, Amarpur, Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Ranjan, Advocate

For the Respondent/s : Mr. Anjani Kumar, AAG-4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT & ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date: 24-09-2018

The petitioner has sought a direction restraining



the respondents-State from carrying on construction of a water-tank building over a pond, viz., Jalla-Pokhar spread over an area of 1 acre 36 decimals situated at Mauza-Ballikita.

2. It has been asserted by the writ-petitioner that the pond referred to above is the only source of irrigation for 900 acres of agricultural land in several adjoining villages. The petitioner has also prayed for removal of encroachment from the northern side of the pond which has been encroached upon illegally.

3. The aforesaid petition has been stoutly opposed by the respondents-State on the ground that the water-tank building is not being constructed over the pond which falls in Plot No. 813; rather the same is being constructed on Plot No. 814.

4. It has further been brought to the notice of the Court by the respondents-State that on the complaint lodged by the local persons regarding encroachment of the land adjoining the pond and stopping the construction of the water-tank building, an enquiry was conducted and it was found that the *bandh* over Plot No. 812 had been encroached upon to the extent of 6.285 decimals and Plot No. 814 was lying vacant in the past which too has been encroached to the extent of 8.476 decimals. After the aforesaid enquiry, the encroachers were asked to vacate the land over which they had settled and the



present petition, it has been argued, is nothing, but an attempt to prevent the respondent authorities from removing the encroachment from the land adjoining the pond.

5. We have heard the learned counsel for the parties and are satisfied that the water-tank building is not being constructed over any water body, but on an adjoining plot.

6. The water-tank building is also of great public utility and if it is not being constructed over a water body, the construction of the same ought not to be stopped.

7. There is not merit in this writ petition and is, therefore, dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Praveen- II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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