

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4323 of 2015

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Triloki Nath Pandey son of Late Ram Krit Pandey Resident of Village - Deokali, P.O. Bir, P.S. Dhanarua, District Patna. At present residing at Qr. No. 11, Road No. 5, Gardanibagh, Patna.

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Department of Rural Development, New Delhi.
2. The State of Bihar.
3. Principal Secretary, Department of Revenue and Land Reforms, Bihar, Patna.
4. District Magistrate, Patna.
5. Sub Divisional Officer, Masaurhi.
6. District Land Acquisition Officer, Patna.
7. Executive Engineer, Rural Works Division, Masaurhi, Patna.
8. Circle Officer, Dhanarua.
9. National Projects Construction Corporation Ltd. Plot No. 67-68 Sector - 25, Faridabad - 121004 (Haryana).
10. Zonal Manager, National Projects Construction Corporation Ltd. PMGSY Works Patna, 15, I.A.S. Colony, 2nd Floor, Kidwaipuri, Patna - 800001.
11. Project Manager National Projects Construction Corporation Ltd. PMGSY Works Patna, L- 58, Chakaram, Opp. Durga Mandir, S.K. Nagar, Patna - 800001.
12. Officer-in-Charge National Projects Construction Corporation Ltd. PMGSY Works Patna , L - 58, Chakaram, Opp. Durga Mandir, S.K. Nagar, Patna - 800001.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Brij Bihari Tiwary, Advocate
For the State	:	Mrs. Archana Meenakshee, GP6
		Mr. Prabhat Ranjan, AC to GP6
For Res. Nos.9 to 12	:	Mr. Arun Kumar Arun, Advocate
		Mr. Shailendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 06-09-2018

Heard the learned counsel for the petitioner, learned counsel for the State and the learned counsel appearing on behalf of NPCC Limited.



2. The Secretary, Rural Works Department, Government of Bihar and Executive Engineer are present in pursuance of the order dated 28.08.2018.

3. The petitioner in this writ petition seeks a writ of mandamus or any other appropriate writ, order or direction to the respondent authorities to pay the compensation at the government approved rate to the petitioner for acquisition of his land of Khata No.248, Plot No.451, Tauzi No.6200, Thana No.77 situated in Village Deokuli, P.S. Dhanarua, District Patna.

4. The learned counsel for the petitioner submits that the petitioner inherited the aforesaid land with his other four brothers and the land fell in the share of the petitioner on amicable partition amongst the brothers. A road from Deokuli to Sonmai via Hireenchak was constructed under Prime Minister Gramin Sarak Yojana (hereinafter referred to as 'PMGSY') being Scheme No.BR-26/242. The road under PMGSY was to be constructed on government land. National Projects Construction Corporation Limited is the executive agency and the construction work was started in the year 2000. According to the programme guidelines of PMGSY, it is the responsibility of the State Government to make available the land for the purpose of construction of road. The Central Government under PMGSY does not provide any funds for land acquisition but that does not mean that acquisition cannot be done by the State Government at



his own cost. It is further submitted that National Projects Construction Corporation Limited constructed the said road on the land of the petitioner bearing Plot No.451, Khata No.248. The petitioner sent a letter to the respondent no.7 on 17.02.2011 and apprised him about the construction of road over his land without acquisition of the same but the authority did not take any proper action. The petitioner again wrote letter to respondent no.7 on 02.07.2011 for removal of encroachment from the land of the petitioner. The respondent no.7 informed that the construction work of the road was not executed by the division of National Projects Construction Corporation Limited. On the application of the petitioner, the Circle Officer, respondent no.8, got the land of the petitioner measured and on measurement of the land the road was found constructed over some area of the land of the petitioner. The authorities of National Projects Construction Corporation Limited wrote letters to the Contractor, A.K. Brothers, to stop ongoing construction. It is further submitted that the Sub-divisional Officer vide his letter as contained in Memo No.1580, dated 15.07.2015 informed the Collector that the total area of Plot No.451 is 34 decimals out of which Triloki Nath Pandey got 6.6 decimals land in his share and road has been constructed. The constructed road over the land of the petitioner is 1731.25 Square Feet, which approximately comes to 3.97 decimals but till date no amount of



compensation is paid to the petitioner nor the construction of road over the land of the petitioner has been removed.

5. The State filed counter affidavit. The learned counsel for the State submitted that the road under PMGSY was constructed on the government land and on the lands voluntarily donated by the villagers. In presence of many villagers, the petitioner voluntarily donated a portion of his land for construction of the road under PMGSY. The learned counsel for the State referred Annexure-B and C of the counter affidavit and submitted that about 50 villagers have given petition that there was a non-metal road for last 50 years going through the plot of the petitioner Triloki Nath Pandey. At the time of construction of all weather road under PMGSY in the year 2002-03, the petitioner did not raised any objection. Even during the pendency of this writ petition, a meeting was held in presence of the Sub-divisional Officer, Masaurhi, Deputy Collector Land Reforms, Masaurhi, Executive Engineer and Circle Officer and the villagers disclosed that passage has been existing for last 50 years, which passes through the lands of the petitioner and at the time of construction of road, Triloki Nath Pandey, the petitioner, did not raise any objection. It is further submitted that the Secretary, Rural Works Department appeared in Court and also filed counter affidavit stating that on account of alignment of road construction of road was done over 3.974 decimals of land of the petitioner bearing Plot No.451,



Khata No.248, the road was constructed under PMGSY from Deokuli to Sonmai via Hireenchak. The Secretary himself directed the District Magistrate for evaluation of the road for the purpose of acquisition of the land under Bihar Raiyat land Lease Policy, 2014. The Collector, Patna vide Memo No.1951, dated 31.08.2018 did the evaluation work and the Executive Engineer, Works Division, Masaurhi informed the Secretary, Rural Works Department that the cost of the land comes to Rs.3,89,452/-. The Secretary, Rural Works Department vide Letter No.9434, dated 04.09.2018 directed the Additional Chief Executive Officer-cum-Secretary, BRADA to issue allotment of Rs.3,89,452/- for the purpose of payment to the petitioner under policy of Bihar Raiyat Land Lease Policy, 2014 for his land coming in the alignment of the aforesaid road but the petitioner raised objection with regard to the valuation of the land and on such the State has decided to hear the objections of the petitioner on the valuation of the land and decided to take appropriate decisions in this regard within two months.

6. From the facts of the case it is apparent that the road under PMGSY vide Scheme No.BR-26/242 was started in the year 2000 and the same was completed till the year 2002 with an object to provide all weather access to unconnected habitants in the rural areas. The scheme was totally centrally sponsored scheme. According to the guidelines of PMGSY, the roads under the PMGSY



are constructed on the government land and it is the responsibility of the State Government to make the land available for the purpose of construction of road. If any exigency arises for alignment in construction of road, the State Government may acquire the land or the road is constructed on the voluntarily donated land of the villagers. Admittedly the construction work was started in the year 2000 and completed in the year 2002 but the petitioner did never raised any objection. For the first time the petitioner filed petition before the executing agency, National Projects Construction Corporation Limited and on the petition of the petitioner the Circle Officer got the land measured and found that the road was constructed over 3.97 decimals of land of the petitioner. The authority is ready to acquire the land of the petitioner under Bihar Raiyat land Lease Policy, 2014. Although the authorities have also taken stand that initially the petitioner voluntarily donated the land for the construction of all weather road under PMGSY and many villagers gave application to this effect that the petitioner voluntarily allowed the road to be constructed over a portion of his land but if the petitioner want reasonable compensation, the authority is ready to take the lease of the land of the petitioner under the policy of Bihar Raiyat Land Lease Policy, 2014 and accordingly, the valuation of the land of the petitioner was assessed to Rs.3,89,452/- and the draft was sent to the Collector, Patna for payment but petitioner raised



objection with regard to the rate of valuation and the basis of calculating the compensation. On such the respondent-Secretary has undertaken to settle the dispute in consultation with the Collector within two months or the State would remove the road falling on some portion of the land of the petitioner.

7. Having considered the facts aforesaid, I dispose of this writ petition with a direction to the Principal Secretary, Rural Works Department, respondent no.3 and the Executive Engineer, Rural Works Division, Masaurhi, Patna to settle the dispute raised by the petitioner and if the dispute is not amicably settled with regard to payment of compensation, the road constructed over the land of the petitioner be removed within three months from the date of receipt of this order.

8. With the aforesaid observation, this writ petition is disposed of.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.09.2018
Transmission Date	NA

