

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12812 of 2017

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1. Siya Saran Mistri Son of Late Kishori Mistri
 2. Jitendra Pandey Son of Late Saligram Pandey
 3. Ganesh Rai Son of Late Shiv Charan Rai
 4. Rani Devi W/o Diwakar Goswami All are resident of village - Ismailpur, P.S. Ismailpur, District Bhagalpur, Bihar.
 5. Bindeshwari Mandal S/o Late Chamru Mandal r/o village - Navtolia, P.S. Ismailpur, District - Bhagalpur, Bihar.
 6. Bosuki Kumar s/o Prakash Yadav
 7. Rupesh Kumar s/o Basant Yadav
 8. Amresh Kumar Yadav s/o Bechan Yadav All are residents of village - Bhitha, P.S. Ismailpur, District - Bhagalpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Secretary, Rural Works Department, Government of Bihar, Patna.
3. The District Magistrate, Bhagalpur.
4. The Block Development Officer, Naugachia.
5. The Circle Officer, Naugachia.
6. The Executive Engineer, Rural Works Department, Government of Bihar, Bhagalpur.
7. Dilip Munka Son of not known Contractor, REO Department, Naugachia, Bhagalpur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Singh
For the Respondent/s : Mr. P.N. Shahi - Aag6

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CORAM : HONOURABLE THE CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 05-09-2018 The petitioners have prayed for the following
reliefs:-

(i) To issue an appropriate writ, order or direction in the nature of mandamus commanding the Respondents to pay adequate compensation, in accordance with law, to the petitioners for their land which has been encroached upon and used to construct a road under the Pradhan Mantri Gram Sadak Yojana forthwith.

(ii) This Hon'ble Court may adjudicate and hold that the action of the Respondent in encroaching upon and using the land of the Petitioners, for construction of road under Pradhan Mantri Gram Sadak Yojna, that too without consent or without payment of compensation is an act of malafide and complete arbitrary exercise of authority/power and the same has no valid in the eyes of



law.

(iii) This Hon'ble Court may adjudicate and hold that the land of any person cannot be utilized by any State authority/machinery without his consent or without its acquisition in accordance with law after payment of due compensation.

(iv) This Hon'ble Court may further adjudicate and hold that the action of the Respondent Authorities in not acting upon the representation of the petitioners in this matter is an act of malafide and complete arbitrary exercise of authority/power.

A supplementary affidavit has been filed on behalf of the petitioners in which the petitioners have relied upon the order dated 09.01.2018 passed by the District Magistrate, Bhagalpur in which it is stated that under the Prime Minister Gramin Sadak Yojana, 3.51½ K.M. road was to be constructed and the same was to be commenced from June, 2016. It is stated that out of which, 1.16 K.M. road is on the Government land and



the rest is on the *Raiyati* land. It is stated that 1.65 K.M. road has already been constructed and the remaining road which is yet to be constructed belongs to Siya Saran Mistri and Jitendra Pandey i.e. petitioner nos. 1 and 2 herein.

The learned counsel for the respondents has stated at the bar that appropriate decision shall be taken by the concerned respondents considering the observations made by the District Magistrate, Bhagalpur in the order dated 09.01.2018 and if it is found, as observed by the District Magistrate that the road has been constructed on the *Raiyati* land belonging to the petitioners, in that case, either compensation shall be paid and/or action shall be taken by the Principal Secretary, Rural Works Department, Government of Bihar within a period of twelve weeks from today.

The concerned respondents are directed to take efforts in this regard.

The petition is disposed of accordingly.



Re:-Interlocutory Application No. 6791 of 2018

Since the main petition has already been
disposed of, I.A No. 6791 of 2018 is also disposed of.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Shageer/Krishna

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