

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12931 of 2017

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Niranjan Kuwar, S/o Late Gandhi Kuwar, Resident of Village- Laugai, P.O.-
Laugai, P.S.- Amarpur, District- Banka.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The District Magistrate, Banka.
4. The Superintendent of Police, Banka.
5. The Circle Officer, Amarpur, District- Banka.
6. The Officer in Charge, Amarpur P.S., District- Banka.
7. North Bihar Power Distribution Company Limited through its Managing Director, Vidyut Bhawan, Patna.
8. The Managing Director, North Bihar Power Distribution Company Limited, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brajesh Kumar

For the Respondent/s : Mr. Anjani Kumar, AAG4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 13-02-2018

Petitioner claiming to be a resident of the village in question and a farmer has filed this writ petition under Article 226 of the Constitution of India in Public Interest and it is contended that the respondents are constructing a power sub-station in Mouza- Laxmipur Chiraiya, bearing Khata No. 146, in Khesra No. 436 and 438, measuring area 4 acres. This area is shown as a pond in the map and the khatian and the water is used for irrigation purpose and if power



station is constructed it would disturb free flow of water which is used for irrigation. Accordingly, submitting that in spite of filing representation before the Executive Engineer, Banka and the Circle Officer, Banka, nothing has been done and the construction is progressing the petitioner has filed this Public Interest Litigation.

Respondent nos. 3 to 5 and the respondent-Power Company have filed their counter affidavits and they all challenged the public-spirited antecedent of the petitioner. They say that the petitioner has filed this writ petition for vested interest and no public interest is involved. Respondent nos. 3 to 5 in their counter affidavit filed on 30.11.2017 have denied the contention with regard to construction of wall in between the pond and have also stated that irrigation is not adversely affected. In Paragraphs 6 to 8 of the counter affidavit so filed by respondent nos. 3 to 5 have made the following assertions:-

“6. The petitioner has only filed representation without mentioning even the area of Khesra No. 436 and 438. The petitioner in the grab of present Public Interest Litigation wants to settle his own grudge against the development plan of the Central Government as more of the villagers has any grievances in irrigation facilities nor they shall be affected in any manner.

7. The Gram Sabha in a meeting held on 25.02.2017 has unanimously passed no objection on the



land of Mauza Thana No. 238 Laxmipur Chiraiya having Khata No. 146, Khesra No. 438, area 0.50 dec.out of 0.87 dec. (60 Meter long x 40 meter width area 2400 sq. meter) for construction of power sub-station under Deen Dayal Upadhyay Gram Jyoti Yojna.

8. The respondent no. 5 has already initiated a proceeding for land transfer Case No. 1/16-17 for the said project, the land of Khesra No. 438 for 0.50 dec. out of 0.87 dec. recorded as Gairmajarua Aam land nature Parti Kadimin C.S. Khatiyar free from dispute, connected with road and away from the dense population. Spot verification was also made by the Halka Karmachari. Circle Inspector and Junior Engineer (Electrical). The respondent no. 5 has also inspected the spot. The villagers have also consented and raised no objection as irrigation facilities shall not be disturbed. The land yield two crops in a year.”

Thereafter, further counter affidavit has been filed by the respondent-Power Company and from the averments made therein it is seen that the proposal for transfer of land is still pending and certain construction activity is being done but they deny construction in creating hindrance in free flow of irrigation.

On going through the pleadings we find that there are serious disputes as to in which part of the Khesra Nos. 436 and 438 the construction is carried out and whether any hindrance in the water



body is created. Taking note of the totality of the circumstances and the fact that the petitioner seems to be an interested person and has not disclosed his public-spirited antecedent, we are not inclined to exercise our extra-ordinary writ jurisdiction under Article 226 of the Constitution and interfere with the implementation of a public project under a scheme of the Government in establishing of a power station. If the petitioner has any grievance he can take the issue with the State Government and it is for the State Government to consider the grievance of the petitioner.

In this Public Interest Litigation under Article 226 of the Constitution, we see no reason to make any indulgence looking into the dispute that has come on record. The writ petition is, therefore, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

mr1/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.02.2018
Transmission Date	

