

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1395 of 2019

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1. Vishwanath Prasad son of Late Rameshwar Prasad. Resident of Village- Silaunja, P.O.- Basarhi, P.S.- Bodh Gaya District Gaya.
 2. Baijnath Prasad son of Late Rameshwar Prasad. Resident of Village- Silaunja, P.O.- Basarhi, P.S.- Bodh Gaya, District- Gaya.

... .. Petitioners

Versus

1. The State Of Bihar through the Principal Secretary, Road Construction Department Govt. of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The District Land Acquisition Officer, Gaya.
4. The Circle Officer, Bodh Gaya, Gaya.
5. The Executive Engineer, Road Construction Division- 1, Gaya.

... .. Respondents

Appearance :

For the Petitioner : Mr. Prabhakar Singh, Advocate
For the Respondent State: Mr. Anujit Sinha, AC to PAAG-2

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 24-01-2019 This writ application has been filed seeking
following relief : -

“That this application for issuance of a writ of mandamus commanding upon the Respondents to pay the amount of compensation on the basis of nature of land i.e. commercial in nature as would be evident from their own documents and submissions made before this Court as well as on the basis of first measurement which was genuine one and measured and decided by the Respondents themselves pertaining to widening of the road namely Body Gaya-Barachatty via Mohanpur in which the petitioners land situated in Khata No.189, Plot No.76 area 75 decimal situated at Mauza Silaunja, P.S.-Bodh Gaya, Thana No.-442 District-Gaya was going on which has been done without adopting the process of acquisition and not even any notice was given to the petitioners is directed in the following facts and circumstances of the case.”



It is the case of the petitioners that for the purpose of calculating the compensation amount, the respondents have not duly appreciated the nature of the land nor the actual area of the land of the petitioners has been taken into account, which has been acquired. The petitioners have relied on the report of Amin dated 25.05.2016 to make out their case that the area of land acquired is 75 decimals.

The petitioners had earlier approached this Court in 2015 by filing a writ application giving rise to C.W.J.C. No. 12322 of 2015. The said writ application came to be disposed of by an order dated 03.09.2015. Aggrieved by non-implementation of the said order, the petitioners again approached this Court by filing a contempt petition, which gave rise to M.J.C. No. 1345 of 2016. The said contempt petition was disposed of by an order dated 12.03.2018, which reads thus :-

“Heard learned counsel for the petitioners and learned counsel for the State.

The issue has been deeply considered by the authorities and a fresh measurement has been conducted in the presence of the petitioners. It appears that there is minor variation, in the measurement conducted earlier when matched with the present measurement and the Authorities are ready to release the cheque simultaneously, when the petitioners appear for registering the lease deed of the land in question.



Learned counsel appearing on behalf of the State submits that the cheque which was earlier prepared is ready for being handed over to the petitioners at the time of registration of lease deed as per the extant rules.

However, learned counsel for the petitioner submits that with regard to the nature of the land, the Authorities have not addressed themselves to the issue properly. Therefore, liberty may be granted to the petitioners to raise such issue before the appropriate authority.

Accordingly, the present contempt application stands disposed of with the aforesaid liberty.”

It is evident from the order dated 12.03.2018 passed in the contempt proceeding that the petitioners were granted liberty to raise the issue of nature of land before the appropriate authority. The petitioners have again come before this Court by filing the present writ application with the relief as noted above without approaching the appropriate authority, for which liberty was granted to them by order dated 12.03.2018 in M.J.C. No. 1345 of 2016. That apart, the petitioners have remedy under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2015, if they did not intend to accept the award in lieu of acquisition of their land. There is no clue whether the petitioners invoked the said provision or not.

This application, in my view, is frivolous and deserves



to be dismissed. It is accordingly dismissed.

It goes without saying that the petitioners shall have liberty to approach appropriate statutory authority in accordance with law.

(Chakradhari Sharan Singh, J)

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