

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8628 of 2016

-
1. Alamgir Khan @ Ali Imam Khan and Anr Son of Late Hefazat Khan
 2. Amin Khan Son of Late Liyakat Khan Both 1 and 2 are R/o village - Bantara
P.O. Bantara, P.S. Devkund, District - Aurangabad

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Aurangabad
3. The Executive Engineer, State High Way, P.W.D. Aurangabad
4. The Sub - Divisional officer, Daudnagar, Aurangabad
5. The Circle officer, Goh, Aurangabad

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mithilesh Kumar Upadhyay
For the Respondent/s	:	Mr. Sunil Kumar Mandal, S.C.-3
		Mr. Ravi Ranjan Kumar Singh, AC to SC-3
		Mr. Bipin Kumar AC to SC-3

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 29-04-2019 Heard learned counsel for the petitioner.

The grievance of the petitioners in the petitioner writ application is that construction was made by the State authority over their *raiya* lands.

Law has been settled that the authorities cannot encroach the private land of any citizen without acquiring the land and without making payment of compensation amount.

On behalf of respondent no. 2 a counter affidavit has been filed wherein a stand was taken by the respondent no. 2 in paragraph 12 and 13, which reads as under: -



“12. That it is pertinent to mention here that the Deputy General Manager (Technical), Project Implementation Unit (Gaya), Bihar State Road Development Corporation Ltd. Also wrote a letter to the Circle Officer, Goh through District Magistrate, Aurangabad vide letter n.177, dated 30.05.2013 (as contained Annexure- “3” to the writ petition) requesting therein to get the measurement of land in question and furnish measurement report with area and sketch of the effect part, so that the requisition could be sent to the Land Acquisition Officer, Aurangabad for its acquisition.

13. That pursuant to that the required measurement report with sketch has already been sent by the respodnetn Circle Officer, Goh to the Deputy General Manager (Technical) Project Implementation Unit (Gaya), Bihar State Road Development corporation Ltd. Throguh WhatsApp, E-mail, Post and also vide letter n. 592, dated 03.10.2016 and letter 799 dated 15.12.2016 to take further action in this regard, but action taken report is still awaited.”

From the averment made in paragraph 12 and 13 of



the counter affidavit, it does not mean the land was specifically acquired for the purpose of construction. The development outweigh private interest but public welfare does not mean that the respondents will arbitrarily use the private land for construction without following the due process of acquisition and without payment of compensation, such action would amount to violation of the right to property guaranteed under Article 300-A of the Constitution.

In the peculiar facts and circumstances, this writ application is disposed of with a direction to the District Magistrate, Aurangabad to cause an inquiry into the claims of the petitioners and if it is found that the construction is carried out over the raiyati land of the petitioners and without acquiring the land, construction have been made or construction is going on, the District Magistrate, Aurangabad, shall ensure that the petitioners are paid adequate compensation in terms of the existing law. Necessary exercise as to the determination of the amount of compensation on determination of the dispute that the land in question is raiyati lands of the petitioners, which have been used, must be completed by the District Magistrate, Aurangabad, within a period of three months from the date of receipt/production of a copy of this order. In the event the land



in question is found to be a public land and the compensation has not been paid, the District Magistrate is under obligation to ensure payment of compensation in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013.

With the aforesaid observation, this application stands disposed of.

(Anil Kumar Upadhyay, J)

Ashish/-

U			
---	--	--	--

