

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2174 of 2014

1. Vinod Prasad S/O Late Ram Lakhan Prasad @ Lakhan Prasad, Resident Of Village Gawaspur, P.S.- Islampur, Via Telhara, District- Nalanda At Biharsharif
2. Vijay Prasad Sinha Late Ram Lakhan Prasad @ Lakhan Prasad, Resident Of Village Gawaspur, P.S.- Islampur, Via Telhara, District- Nalanda At Biharsharif
3. Kamlesh Kumar Srivastava Late Ram Lakhan Prasad @ Lakhan Prasad, Resident Of Village Gawaspur, P.S.- Islampur, Via Telhara, District- Nalanda At Biharsharif
4. Sumitri Devi W/O Late Ram Lakhan Prasad @ Lakhan Prasad, Resident Of Village Gawaspur, P.S.- Islampur, Via Telhara, District- Nalanda At Biharsharif

... .. Petitioner/s

Versus

1. The State Of Bihar, through the Secretary, Department of Revenue & Land Reform, Bihar, Patna.
2. The Secretary, Rural Works Department, Govt. Of Bihar, Patna
3. The Collector, Nalanda
4. The District Development Commissioner, Nalanda
5. The Executive Engineer, Rural Works Department, Works Division, Hilsa At Nalanda
6. The Land Acquisition Officer, Nalanda
7. The Anchaladhikari, Islampur, District Nalanda
8. The Block Development Officer, Islampur, District Nalanda
9. Mukhiya, Gram Panchayat Raj Muzaffara Panchayat, District Nalanda
10. Urmila Devi W/O Parmanand Prasad, Resident Of Village Gawaspur, P.S.- Islampur, Via Telhara, District- Nalanda At Biharsharif

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Amarendra Narayan
For the Respondent/s : Mr.Gp-17 Binodji Verma

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 25-10-2019

The present writ petition was initially filed for
restraining the respondents from constructing pucca RCC road



or utilizing any portion of petitioners' Nizi land in S.P. No. 990, 772 and 641 under khata 315 in Mouza Muzaffarpur (gawaspur), Thana Islampur, in the district of Nalanda (Biharsharif), having an area of 1.94 Acre; 0.31 Acre and 0.06 Acres respectively in construction of rural road.

The brief facts of the case are that the petitioners are permanent resident of village Gawaspur, Thana Islampur, District Nalanda (Biharsharif) and they own and possess land in S.P. No. 990, 772 and 641 under Khata 315 in Mouza Muzaffara (gawspur), Thana Islampur, in the District of Nalanda (Biharsharif), having an area of 1.94 Acre, 0.31 Acre and 0.06 Acres respectively.

It has been further submitted that in the cadestral survey also the aforesaid lands were recorded as raiyati land in the name of the ancestors of these petitioners, namely, Sidheshwar Prasad, Laxman Prasad and Lakhan Prasad @ Ram Lakhan Prasad. It is the case of the petitioners that they are descendants of the branch of Ram Lakhan Prasad who died leaving behind his four sons and widow and, accordingly, the petitioners have been coming in possession of the land in question.

The learned Senior counsel appearing for the



petitioners has submitted that the aforesaid land in question was being used for the purposes of the family members of the petitioners, however, the respondents, under influence of the influential persons started encroaching upon the land of the petitioners by preparing an alternative short-cut approach road, passing through the land of the petitioners and thereafter, attempts are being made to convert it into a pucca structure. It is the contention of the learned Senior counsel, appearing for the petitioners, that neither without acquiring the land in question nor without granting compensation for the same, the petitioners cannot be divested of their right, title and possession over the land in question, which is their raiyati land. It is submitted that it is incumbent upon the State Government authorities to follow the due process of law, nonetheless, the State Government authorities are trying to make pucca road and dispossess the petitioners without following the due process of law.

The learned counsel for the respondent State, by referring to the counter affidavit filed on behalf of the respondents No. 3 to 8, has submitted that for village Goraspur, a village road was sanctioned under the Pradhan Mantri Gramin Sandak Yojna scheme bearing Scheme No. 1/2002, however, during the construction of the road, a dispute has arisen with



regard to the land in question and thereafter a panchayati was held on 24.08.20012 and Samajik Samjhauta was entered into between the land holder and the co-villagers whereby it was decided that the petitioners would donate the land. It is thus submitted that though admittedly the land in question belongs to the petitioners, on which the road is being sought to be constructed, but on account of the Samajik Samjhauta, the road is being constructed over the land of the petitioners. It is further submitted that the road has already been constructed and at the moment, the repair is being done.

Per contra, the learned Senior counsel appearing for the petitioners has submitted that the road is still incomplete and the same can be verified by spot verification.

I have heard the learned counsel for the parties and I find from the materials available on record as also from the submissions made by the learned Senior counsel appearing for the petitioners as also the learned counsel, appearing for the respondents that the land in question, over which pucca road is being constructed, admittedly belongs to the petitioners, however, still is being stated to have been donated by the petitioners pursuant to a Samajik Samjhauta, however, the learned Senior counsel for the petitioners has submitted that the



petitioners are not parties to the said Samajik Samjhouta. Thus, this Court is of the opinion that either the respondents can abandon the construction work of the road in question over the land of the petitioners, in case the road has not been constructed, or in case the road has been constructed, the road can be removed from the raiyati land of the petitioner or in the alternative, if the respondent authorities do not think it fit and proper to remove the road in question, compensation shall be disbursed/ paid to the petitioners by the respondent State under the scheme of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is directed accordingly.

The writ petition stands allowed with the aforesaid directions.

(Mohit Kumar Shah, J)

Tiwary/-

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

