

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7528 of 2014

1. Jai Prakash Tiwari, Son of Shri Sharda Nand Tiwari
2. Nagdeo Mishra, Son of Late Ram Prasidh Mishra, both resident of At+P.O. +P.S.- Jalalpur, District- Saran

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Land Reforms Department, Govt. of Bihar, Patna.
3. The District Magistrate, Saran at Chapra.
4. The Lands Acquisition Officer, Saran at Chapra.
5. The Circle Officer, Jalalpur, Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shashi Shekhar Tiwary
For the Respondent/s : Mr.Devendra Kr Sinha

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

8 18-11-2019 I.A. No.9213 of 2017 is filed to substitute the legal heirs
of petitioner no.2 as petitioner no.2 died on 16.10.2017.

I.A. No.9213 is allowed.

Let legal heirs of petitioner no.2 be substituted in place
of petitioner no.2 after expunging the name of petitioner no.2.

The petitioners filed this writ petition for direction to
the respondents for payment of compensation for construction of
road on the land of the petitioners pertaining to Khata No.231,
Plots No.1616, 1627, 1628 and 1605 situated in village Jalalpur,
P.S. Jalalpur, District Saran.

Learned counsel for the petitioners submits that the



petitioners are owners of the land including Plot No.1607 on which the house of the petitioners are situated. The authority started making brick built road without acquisition of the land of the petitioners and without payment of adequate compensation. The respondents constructed road on 300x15 feet land of the petitioners. The petitioners filed several representations before the respondents but till date no communication was made to the petitioners. The map does not contain any road in the boundary of the lands gifted to the petitioners.

The State filed counter affidavit. Learned counsel for the State submits that the road was constructed on the part land of Plots No.1616, 1627, 1628 and 1605 of Khata No.231. It is submitted that the petitioners claimed the land on the basis of gift deed executed on 26.07.1989. Nagdeo Mishra, petitioner no.2 gifted the property in favour of Jai Prakash Tiwari, the petitioner no.1 on 26.07.1989. Nagdeo Mishra, petitioner no.2, now deceased, mentioned that the road is situated in the southern and western boundary of Plots No.1616, 1627 and 1628. It is submitted that from perusal of the map, there was no road in the boundary of the lands of Nagdeo Mishra but the mud built road was constructed and when Nagdeo Mishra gifted the property, he mentioned the road in his boundary gifted to the petitioner no.1. Nagdeo Mishra himself constructed the mud built road and created



right of easement in favour of the villagers. The respondents on existing mud built road constructed brick built and thereafter PCC road, therefore, the respondents did not take any steps for acquisition of the land and the respondents only constructed the PCC road on the existing mud built road and petitioners are not entitled to get compensation.

Admittedly Nagdeo Mishra, petitioner no.2, now deceased, was the owner of the land of Khata No.231, Plots No.1616, 1627, 1628 and 1605. In the revisional survey map, as appended by the petitioners in his supplementary affidavit, road is not existing in the boundary of Plots No.1616, 1627, 1628 and 1605. Nagdeo Mishra, petitioner no.2, now deceased gifted his lands to the petitioner no.1, Jai Prakash Tiwari by a registered gift deed dated 26.07.1989. From perusal of the gift deed and the boundary of the lands of Plots No.1616, 1627, 1628 mentioned in the gift deed, it is evident that a road was existing in the southern and western boundary of the land. This fact makes it clear that mud built road was existing in the boundary of the lands bearing Plots No.1616, 1627 and 1628 on 26.07.1989 when Nagdeo Mishra donated his property to the petitioner no.1, Jai Prakash Tiwari. Nagdeo Mishra never complained about the forceful acquisition of land for construction of road and it appears that with his consent he allowed the villagers to construct mud built road in



the boundary of his lands which was existing on the date of gift deed executed by Nagdeo Mishra on 26.07.1989. The road existed for years and only thereafter the respondents firstly constructed brick built road and thereafter constructed PCC road on already existing road in the boundary of gifted land and the villagers have got their right of easement over the lands for their egress and ingress through the roads for years at least much before 26.07.1989, therefore, I find that the petitioners' claim for compensation of the lands on which PCC road was constructed is not justified and legal as the respondents only constructed PCC road on the existing road constructed with the consent of the owner of the land much before 1989 as Nagdeo Mishra himself described the road in the boundary of the disputed lands.

Having considered the facts aforesaid, I do not find any merit in this writ petition and accordingly, the writ petition is dismissed.

(Prabhat Kumar Jha, J)

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