

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2227 of 2008

Sona Devi, wife of Lakhan Rai, resident of Village- Mohanpur, P.S.- Patory,
District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar
 2. District Magistrate-cum-Collector, Samastipur
 3. S.D.O. Patory, Dhamaun, Samastipur
 4. B.D.O. cum C.O. Mohanpur Block, Samastipur
 5. D.S.E., Samastipur
 6. Block Education Extension Officer, Mohanpur, District- Samastipur
 7. Awadh Kishore Rai @ Awadhi Rai, son of Late Mathura Das, resident of Village- Mohanpur, P.S.- Patory, District- Samastipur
 8. Suresh Rai, son of Late Sipahi Rai
 9. Maheshwar Rai, son of Late Mahendra Rai
 10. Akhilesh Rai, son of Awadh Kishore Rai
 11. Arun Rai, son of Maheshwar Rai
 12. Sunil Rai, son of Maheshwar Rai
 13. Anil Rai, son of Maheshwar Rai
 14. Amresh Rai, son of Awadh Kishore Rai
- Respondent nos. 7 to 4 are residents of Village- Mohanpur, P.S.- Patory,
District- Samastipur

.. ... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kr. Singh, Advocate
For the Respondent/s : Mr.Aag3

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

12 06-05-2019 The petitioner has filed the present writ application

for restraining the respondent authorities from proceeding with

construction of Primary School over the petitioner's land.

2. Learned counsel for the petitioner with reference to

the rejoinder to I.A. No. 5818 of 2017 submits that the

respondents have admitted in para.7 to 10 that the petitioner is

being given revised Parcha to the extent of 85 decimals of land



in place of one acre of land and as such the petitioner should be issued revised Parcha of 46 decimals for survey plot no. 165 and 39 decimals of land from Survey plot no. 146 measuring total 85 decimals. Para 7 to 10 of the rejoinder to I.A. No. 5818 of 2017 of petitioner is quoted herein below for ready reference:

“7. So far as the matter of compensation to the petitioner with regard to 15 decimal land utilized for construction of school building, it is humbly submitted that in this regard the Circle Officer, Mohanpur, vide his letter no. 410 dated 02.11.2018, sought for a direction from the Collector, Samastipur.

8. That it is pertinent to mention here that section 27 (2a) of Bihar Land Ceiling Act, 1061 (hereinafter referred to as ‘Act’) provides that “The State Government may, if it considers necessary, set apart such surplus land or portion thereof as is required for purposes connected with, or ancillary to, the scheme of agrarian reforms including the improvement or rural economy or promotion of rural welfare or any other public purpose and the same shall not be used for agricultural purposes.”

9. That Section 27 (3) of the Act provides that “The land settled by the Collector under Sub-section (1) shall be heritable but shall not be transferable.”

10. That in the light of aforesaid



provisions of the 'Act' it was observed that as the land bearing survey plot no. 165, declared as surplus is not transferable and has been utilized for public purpose, hence, payment of compensation of the land utilized for school building to the writ petitioner does not arise. Accordingly, the Circle Officer, Mohanpur, has been directed to send proposal for modification (revise) the purcha as issued earlier to the petitioner to the extent of 85 decimal in place of 1.00 acre vide letter no. 4273/Rev. Dated 19.11.2018 of the Additional Collector, Samastipur. Petitioner shall be issued revised purcha of 46 decimal from survey plot no.165 and 39 decimal from the survey plot no. 146, i.e. total 85 decimal.”

3. Referring to the aforesaid, learned counsel for the petitioner submits that in that situation the petitioner is ready to give up 15 decimals of land out of one acre of land.

4. Considering the statements made in para 7 to 10 of rejoinder to I.A. No. 5818 of 2017, which is quoted herein above, the writ application is disposed of with a direction to the respondents to issue revised Parcha in terms of Annexure-D dated 19.11.2018, if not already issued, within a period of four months from the date of receipt/production of a copy of this order and ensure handing over possession.



5. With the aforesaid, this application stands disposed
of.

(Anil Kumar Upadhyay, J)

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