

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11617 of 2015

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Sudama Singh, son of Late Ram Nath Singh, permanent resident of Village- Madanpur, P.O. Sasaram, P.S. Darigahon, District- Rohtas and at present resident of Mohalla- Safullahganj, Ward No. 21, P.S. Sasaram Town, District- Rohtas, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna
3. The Principal Secretary, Rural Development Department, Government of Bihar, Patna
4. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
5. The District Magistrate cum Collector, Sasaram, Rohtas, Bihar
6. The Deputy Development Commissioner, Sasaram cum Chief Executive Officer, Zila Parishad, Sasaram, Rohtas
7. The Director, District Rural Development Office, Sasaram, Rohtas
8. The District Education Officer, Sasaram, Rohtas
9. The Sub Divisional Officer, Sasaram, Rohtas, Bihar
10. The Block Development Officer, Sasaram, Rohtas, Bihar
11. The Anchal Adhikari Sasaram, Rohtas, Bihar
12. The Sarpanch Garam Panchayat Badhokhara, Block, Sasaram, Rohtas

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Syed Qaisar Hasan, Advocate
		Mr. Arun Kumar, Advocate
For the Respondent/s	:	Mr. Ashutosh Ranjan Pandey, AAG-15

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

19 21-08-2019 This writ petition has been filed in public interest for restoring the water body over Plot No. 181 of Village- Maranpur Bhadhokhara and it is alleged that about 20 decimals of land of the said plot over Plot No. 181 has been encroached upon by the construction of a Village School and an Anganwari Centre and



some other encroachments as well.

It is contended that the pond was encroached by the authorities themselves, and the encroachments allowed being contrary to law, the same should be removed. The revenue records indicate that Plot No. 181 is recorded as Aahar, area- 1 acre 44 decimals, whereas Plot No. 86 is recorded as Taal, area- 1 acre 9 decimals. Affidavits were filed in between and it appears that the encroachment of about 20 decimals of land is admitted. It is also clear from the pleadings that the Anganwari Centre and the Village School came to be constructed over the said 20 decimals of land along with other minor encroachments giving rise to this Public Interest Litigation.

After having examined the entire facts, we had passed an order on 8th of July, 2019 to the following effect:-

“I.A. No. 3723 of 2017

This intervenor application has been filed by one Satyendra Prasad through Shri Amarendra Kumar Sinha, advocate. No one has turned up on behalf of the said advocate. A supplementary affidavit also appears to have been filed in support of the said application that in spite of the orders passed by the revenue authorities, the encroached water bodies have not yet been restored.

Since there is no body to press this



intervenor application, we consign it to records without prejudice to any public spirited person to file a separate petition in this regard.

C.W.J.C. No. 11617 of 2015

Learned counsel for the State Shri Ashutosh Ranjan Pandey, learned Additional Advocate General, prays that the matter be taken in the second week of August, 2019.

An appropriate affidavit shall be filed informing the Court about the location or otherwise of the school and the Anganwari Centre in village Madanpur of Badhokhara Panchayat District Rohtas at Sasaram.

The dispute in this public interest litigation is confined only to the aforesaid aspect and, therefore, we call upon the respondent District Magistrate of Rohtas to file an appropriate affidavit as to the manner in which the water body of the same area that existed in the Revenue Record can be restored either by re-locating the school and the Anganwari Centre or by providing space for a separate water body to be created of the same area in the village in question.

Let the affidavit be filed by the next date i.e., 13th of August, 2019.”

In compliance thereof, an affidavit was filed by the respondents that stands recorded in our order dated 14th August,



2019, which is as follows:-

“C.W.J.C. No.11617 of 2015

An affidavit has been filed today by the S.D.C., Rohtas, Sasaram stating therein that in view of the averments made in the order of the Court in the order dated 8th July, 2019, a water body of the area of land encroached has been re-created and a pond has been constructed.

Learned counsel for the petitioner may verify the correctness or otherwise of the said affidavit and instruct the Court accordingly within a week.

List on 21.8.2019 separately.

C.W.J.C. No.9692 of 2015

Heard learned counsel for the applicant. The report with regard to six districts is still awaited. Learned counsel for the intervenor in I.A. No.5919 of 2017 has invited the attention of the Court to the allegations contained therein.

Learned counsel for the State, while filing the response, shall also take care to answer the allegations made in the aforesaid I.A.

Let the affidavit with regard to compliance be filed within two weeks, as prayed for.

List this case now separately on 29.8.2019.”



A sketch map of the said proposed pond was filed along with the affidavit of the respondents, which is captioned as supplementary counter affidavit dated 13th August, 2019. A reply to the said affidavit has been filed by the petitioner and the petitioner states that apart from the 20 decimals of land of the said plot, the other remaining area of Plot No. 181 has not yet been restored as that would facilitate the villagers for their irrigation and other uses.

From the said affidavit, we do not find any denial of the fact that another water body of the area of 20 decimals has been created over Plot No. 861. The area, therefore, encroached upon has been balanced by the creation of another water body. We, therefore, direct the Revenue Authorities to carry out necessary corrections in the revenue records to that effect so that the creation of the pond is appropriately reflected in the revenue records as well as in the village revenue map.

Apart from this, the balance area of Plot No. 181 as depicted in the affidavits filed in this Court shall be restored as a pond and appropriate action shall be taken by the concerned officials for carrying out the same in the current financial year itself by making appropriate allocation of fund for restoring the said pond.



In view of the aforesaid arrangement having been made, we confine this order to the extent of encroachments made by the construction of the Village School and the Anganwari Centre only. The balance of the encroachments will have to be rectified by taking appropriate steps in accordance with law.

The writ petition stands disposed of with the said observation.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-

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