

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 1677 of 2018

In

Civil Writ Jurisdiction Case No. 19759 of 2013

- =====
1. Birmani Bir Pratap, son of Ram Lakhan Paswan,
 2. Anand Kumar, son of Mahichand Ram
Both residents of village - Pilchi, P.S.- Daudnagar, District-
Aurangabad.

... .. Appellants

Versus

1. The State of Bihar
2. The Chancellor of University, Bihar, Raj Bhawan, Patna.
3. The Vice-Chancellor, Magadh University, Gaya.
4. The Principal, Daudnagar College, Daudnagar, District- Aurangabad.
5. The District Magistrate, Aurangabad.
6. The Sub-Divisional Officer, Daudnagar, District- Aurangabad.
7. The District Land Acquisition Officer, Aurangabad.
8. The Circle Officer, Daudnagar, Aurangabad.

... .. Respondents

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Appearance :

For the Appellants : Mr. Phulendra Kumar, Advocate
For the State : Mr. Ashutosh Ranjan Pandey -Aag15
Mr. Prabhat Ranjan Singh, AC to AAG-15
For the University : Mr. Ritesh Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

**HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)**

Date : 14-01-2020



Heard learned counsel appearing for appellants, learned counsel appearing for Magadh University as well as learned counsel appearing for State.

2. The appellants are aggrieved by the order dated 29-10-2018 passed by learned Single Judge in C.W.J.C. No. 19759 of 2013, by which and whereunder, the learned Single Judge disposed of the aforesaid writ petition directing the concerned University to determine the amount payable to the petitioners (appellants herein) for acquisition of their lands i.e. 3.5 decimal land for use of Daudnagar College.

3. The appellants preferred above-stated writ petition i.e. C.W.J.C. No. 19759 of 2013 and sought relief for issuance of writ of mandamus or any other writ directing the respondent/college to appoint the appellants on 4th grade posts in lieu of their lands, being acquired by the Daudnagar College, Daudnagar or to pay appropriate compensation for acquisition of their lands.

4. The claim of the appellants before the writ court was that 7.5 decimal land of the appellants was taken by Daudnagar College, but out of the aforesaid 7.5 decimal, the



above-stated college acquired only 3.5 decimal land. Furthermore, the case of the appellants before the writ court was that 4 decimal land was also given to above-stated college, but the said college did not take any step for acquisition of aforesaid 4 decimal land and without any authority took possession of that 4 decimal land.

5. Learned Single Judge, passing impugned order dated 29-10-2018, directed the concerned University to determine the amount payable to the appellants due to acquisition of 3.5 decimal land, but so far as 4 decimal land is concerned, the learned Single Judge did not give any finding.

6. However, it would appear from perusal of the pleadings of writ petition as well as submissions of the parties that admittedly, no acquisition proceeding was initiated in respect of 4 decimal land and the appellants admitted that they had gifted the aforesaid 4 decimal land orally to Daudnagar College and subsequently, Daudnagar College came in possession of the aforesaid 4 decimal land and still in possession of the said land. Therefore, it appears that it is a disputed question of fact as to whether Daudnagar College



came legally in possession of aforesaid 4 decimal land and the aforesaid disputed question of fact cannot be decided by the writ court. Therefore, we do not find any illegality or impropriety into the findings given by the learned Single Judge.

7. Accordingly, this Letters Patent Appeal stands dismissed on admission stage itself.

8. However, the appellants shall be at liberty to approach the competent court for redressal of their grievance in respect of 4 decimal land.

(Hemant Kumar Srivastava, J.)

(Prabhat Kumar Singh, J.)

Anay

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16.01.2020
Transmission Date	N/A

