

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8067 of 2020

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Awdhesh Paswan @ Awdhesh Kumar, aged about 56 years, Gender-Male,
Resident of Village- Pokhrahi, P.S.- Barun, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, Minor Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer (Programmes, Monitoring and Geology), Minor Water Resources, Department, Government of Bihar, Patna.
4. The District Magistrate Aurangabad.
5. The Executive Engineer Minor Water Resources, Department, District- Aurangabad.
6. The Circle Officer Block- Barun, District- Aurangabad.
7. Satyendra Singh, Gender-Male, Resident of Village- Khaira, P.S.- Mali, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashank Shekhar, Advocate
For the Respondent/s : Mr. Md. Khurshid Alam, AAG 12

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 25-09-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Shashank Shekhar, learned counsel for the petitioner and Mr. Md. Khurshid Alam, learned AAG 12 for the State.

3. At the outset, the Court finds that there are many defects in the petition, which have nothing to do with e-filing.



Thus, it reflects a very casual approach in filing petitions before the Court.

4. However, in view of the relief claimed in the writ petition and with consent of the parties, the application is being disposed off at the present stage itself.

5. The petitioner has moved the Court for the following reliefs:

“1. That this is an application praying for issuance of a writ in the nature of a writ of Mandamus, or any other appropriate Writ order, direction, directing the Respondent No. 6 to restore his agriculture land of the petitioner bearing Plot No. 123 at village- Pokhrahi, PS- Barun, District- Aurangabad which has been excavated as well as huge amount of soil has been put over the said land by the Private Respondent No. 7, pursuant to the work of rejuvenation of Pond carried by the Private Respondent No. 7 situated over Plot No. 123 at the village of the petitioner. The work of rejuvenation of the pond was carried by the Respondent No. 7 pursuant to the issuance of NIT No. 04 of 2019-20 dated 06.09.2019 (Annexure-2), issued under the signature of Respondent No. 3 as well as without getting the actual area of the pond measured from a Competent Authority, on account of which the Private Respondent No. 7 has excavated and filed huge amount of soil over the entire agricultural land of the Petitioner which is situated adjacent to the pond in question. The petitioner in alternative prays for a direction upon the Respondent No. 6 to dispose of his Representation dated 06.07.2020, submitted before the Respondent No. 6, whereby the petitioner had requested the Respondent No. 6 to remove the soil from his land.

2. That the present Writ Petition is founded on the ground that the action of the Respondent Authorities in permitting the Private



Respondent No. 7 to start the work of rejuvenation of the Pond without getting the area of the pond measured from the Competent Authority and thus allowing the Private Respondent No. 7 to excavate the land of the Petitioner as well as to put huge amount to excavated soil of the pond over the land of the Petitioner is arbitrary and violates right to property of the Petitioner envisaged under Article 300A of the Constitution of India.”

6. The alternative prayer in the application itself is that respondent no. 6, be directed to dispose off the representation filed by the petitioner dated 06.07.2020, copy of which has been annexed in the writ petition.

7. Learned counsel for the State submitted that such representation would be disposed off, if filed.

8. In view thereof, the writ petition stands disposed off with a direction to the respondent no. 6 to dispose off the representation filed by the petitioner on 06.07.2020. It goes without saying that if it is found that soil from the land of others/ any pond is being dug by any person and dumped on the land of the petitioner, the same needs to be removed by the authorities, either themselves or through the person who had dumped the soil on the land of the petitioner.

9. The representation, if filed, shall be disposed off by detailed and speaking order, within six weeks from the date of production of a copy of this order before the respondent no. 6. If



the contention of the petitioner is correct, the removal of the soil from his land, after proper verification of the ownership and demarcation, shall also be completed within the same time period.

10. The Court makes it clear that the respondent no. 6 shall be personally held liable if there is any violation of the present order and the time schedule fixed by the Court for completing the exercise as directed above.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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