

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1673 of 2019

In

Civil Writ Jurisdiction Case No.7528 of 2014

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Jai Prakash Tiwary, Son of Sri Sharda Nand Tiwari, Resident of At and P.O.
and P.S.-Jalalpur, District-Saran.

... .. Appellant/s

Versus

1. The State of Bihar .
2. The Secretary, Land Reform Department, Government of Bihar, Patna.
3. The District Magistrate, Saran at Chapra.
4. The Land Acquisition Officer, Saran at Chapra.
5. That the Circle Officer, Jalalpur, Saran.
6. Kamavti Devi, W/o Nagdeo Mishra, R/o Jalalpur, P.S.-Jalalpur, District-Saran.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Mrityunjay Kumar Tiwary, Adv
For the Respondent/s : Mr.Md.Khurshid Alam (AAG12)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 01-03-2021

Heard learned counsel for the parties.

This LPA under Clause 10 of Letters Patent Appeal has
been preferred for setting aside the judgment and order dated



18.11.2019 passed by learned Single Judge in CWJC No.7528 of 2014, dismissing the writ petition.

Briefly stated, the facts of the case is that Appellant had filed writ petition for payment of compensation amount in respect of road constructed over the gifted land of the Appellant appertaining to Khata No. 231, Plot No. 1616, 1627, 1628 and 1605 situated in Village-Jalalpur in the district of Saran.

The land were measured by the Government functionaries and spot verification was also done and according to revenue records the lands in question are recorded in khatiyan as Dih Basgit and Parti Kadim in nature.

Appellant claims this land on the basis of registered deed of gift executed on 26.07.1989 by Nagdeo Mishra (since deceased) and in the Column No. V of the gift deed where details of land are given, clearly shows that before 1989 there was existence of roads in two sides i.e. Southern and Western boundary of the land and since long villagers are using the road without any hindrance. There was existence of mud road over which brick road was made and thereafter Plain Cement Concrete road (PCC) was constructed. There was never any need for land acquisition as mud road was already existing which was made concrete.



Learned Single Judge has held that in the revisional survey map although road is not existing in the land in question but Nagdeo Mishra, the owner of the property gifted this land to the petitioner by a registered gift deed dated 26.07.1989 and in the boundary of lands of Plot No. 1616, 1327, 1627 of the gift deed, a road is shown to be existing in the Southern and Western boundary of the land, as such, it is apparent that mud built road was already existing in the boundary of the lands in question when Nagdeo Mishra gifted the property to Appellant.

The road existed much prior to execution of the deed of gift and upon said mud road, authorities constructed brick built road and thereafter constructed PCC road, as such, Appellant cannot claim any compensation with respect to road constructed over the land in question as same existed much prior to the land donated to him by a registered gift deed and in the said registered gift deed also, the existence of roads are mentioned and donee himself has admitted and shown said road in his gift deed.

After hearing the parties and considering the materials available on record, this Court does not find any infirmity or error in the order passed by the learned Single Judge requiring any interference by this Court.



Accordingly, the LPA is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.03.2021
Transmission Date	NA

