

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.478 of 2021

In
Civil Writ Jurisdiction Case No.2167 of 2018

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Satish Kumar Ray Son of Late Raj Kishor Narayan Ray, resident of Village - Darba, Police Station- Tajpur (Halai O.P), District - Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Patna - 800001.
2. The Director, Directorate of Land Acquisition, Department of Revenue and Land Reforms, Patna - 800001.
3. The Divisional Commissioner, Darbhanga, District - Darbhanga.
4. The District Magistrate, at Samastipur, District - Samastipur.
5. The District Land Acquisition Officer at Samastipur, District - Samastipur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Narendra Kumar, Adv.
For the Respondent/s : Ms. Nutan Sahay

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 05-12-2022

Heard Mr. Narendra Kumar, learned advocate for the appellant and Ms. Nutan Sahay for the State.

The appellant felt aggrieved by the order dated 06.07.2021 passed by the learned Single Judge in CWJC No. 2167 of 2018, whereby his claim of being an owner of the land, which was acquired for construction of ITI building, was rejected.



The appellant had contended before the learned Single Judge that the land in question was acquired without appropriate notice and compensation to the appellant as the land owner.

Both the aforementioned statements were contested by the respondent/State by stating that notice was issued; objections were invited to the proposal of acquisition of land and that the land in question, which today stands acquired over which ITI building has been constructed, is not the land which the appellant claims to be his. The land so acquired is the Gairmajarua land, which is shown in the records as fallow land (Parti Kadim).

The learned counsel for the appellant has submitted that merely because a land has been shown to be "Parti Kadim"/fallow, that does not necessarily mean that it is a government land.

The appellant has tried to demonstrate that the land which has been acquired is his raiyati land.



The learned counsel for the State has drawn the attention of this Court to the counter affidavit wherein there is a specific statement that the boundaries of the land of the appellant does not tally with the land which stood acquired and that such acquisition was not only on the basis of the land being fallow, but it being a Gairmajarua-Aam land.

The learned Single Judge, finding that the issue involves a declaration of title which cannot be done by a Court exercising writ jurisdiction under Article 226 of the Constitution of India, dismissed the writ application with a liberty to the appellant to file a suit before the civil court of competent jurisdiction.

It was also observed by the learned Single Judge that the appellant's claim for fair compensation under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, would depend upon the outcome of such suit.



The learned Single Judge is absolutely justified in not having entertained the writ application of the appellant.

It is open for the appellant to agitate for a declaration of title over the land which has been acquired before a competent civil court and in case it is returned with such declaration, it would be a ground for him to claim fair compensation for the land so acquired.

However, there is nothing for us now to interfere with the order passed by the learned Single Judge.

The appeal stands dismissed.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

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AFR/NAFR	NAFR
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