

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4228 of 2020

=====

Kusheshwar Singh @ Kusheshwar Prasad Singh Son of Late Ram Prakash Singh Resident of Balu Tola, Ward No. 11, P.S. B. Kothi, P.O.- Nirpur, District- Purnia Pin- 854203.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Rural Works Deptt., Government of Bihar, Patna.
2. The Divisional Commissioner Division Purnia.
3. The District Magistrate District- Purnia.
4. The Additional Collector District- Purnia.
5. The Sub-divisional Officer Sub- Division Dhamdaha, District- Purnia.
6. The Circle Officer Circle Barhara Kothi, District- Purnia.
7. Engineer-in- Chief Rural Works Department Bihar, Patna.
8. Superintending Engineer Rural Works Department, Work Division Dhamdaha, District- Purnia.
9. Executive Engineer Rural Works Department, Work Division Dhamdaha, District- Purnia.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Singh
For the Respondent/s : Mr. Kumar Alok (Sc7)

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 09-10-2023

1. Heard the learned counsel for the parties.

2. This writ application has been filed by the petitioner for issuance of direction to the respondents to remove the road which has been constructed on the residential land of the petitioner arbitrarily.

3. It is submitted on behalf of the petitioner that the land in question situated at Mouza Thhadhi, P.S. Barhara Kothi, District-Purnia appertaining to Thana No. 157/2, Khata No. 377



Khesra Nos 571 and 572 and measuring 30 decimal. The road has been constructed on the part of it from Northern side instead of the government land on which the road was to be constructed. The aforesaid land is the homestead land of the petitioner. The said land is the Khatiyani land of the petitioner.

4. It has further been submitted on behalf of the petitioner that the land in question was acquired by the respondent authorities without obtaining consent of the petitioner way back in 2015 itself and the petitioner has been raising his grievance against the construction of the road in question and has been pursuing the same right from the year 2015 till date.

5. Learned counsel for the State by filing counter affidavit submits the present petitioner has been filed after gross delay and is fit to be dismissed on this ground alone.

6. It is further submitted on behalf of the respondents that the road in question which is lying on the portion of the private land bearing Thana No. 157/2, Khata No. 377, Khesra No. 571 and 572, Mouza Thhadhi, P.S. Barhara Kothi, District-Purnia of the petitioner is not a new road. The portion of the road lying in the aforesaid private land of the petitioner existed since long and road has been constructed



under the scheme N.R.E.P. many years back in the form of Brick soling road. On the aforesaid pre-existing alignment of Brick Soling Road, PCC (Pakka) road has been constructed in the year 2015 by the Rural Works Department. It has further been submitted that the petitioner never objected nor made any complaint with respect to the construction of the brick soling road on the portion of his land which is clearly stated in the order dated 18.12.2019 passed by the District Magistrate-cum-2nd Appellate Authority, Purnia in Issue No. 40911-12740 (Annexure-3, Page No. 22 of the writ application) as well as in other orders which has been challenged in this writ application.

7. Having regard to the facts and circumstances of the case and nature of controversy involved in this application, there is no material available on record to suggest that when the Brick Soling Road was laid, the petitioner had ever raised any objection. There is no material available on record to suggest that any grievance against laying construction of the brick soling road which was done much prior to the construction of the road by the N.R.E.P. Petitioner maintained silence when the road was being constructed and did not raise any grievance for the same which indicates that petitioner had agreed for construction of the road.



8. Having regard to the facts and circumstances of the case, at this stage after lapse of more than a decade, no relief can be granted, as has been sought in the present writ application.

9. This writ petition is accordingly disposed of.

(Prabhat Kumar Singh, J)

Shishir/-

U			
---	--	--	--

