

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3611 of 2023

Kesho Prasad Son of Late Sukar Prasad, Village-Koldiha, P.O. and Police Station-Sirdala, District-Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue of Land Reforms, Government of Bihar.
2. The District Magistrate cum Collector, Nawada.
3. The Deputy Collector Land Reforms, Nawada.
4. The Subdivisional Officer, Rajouli.
5. The Circle Officer, Sirdala, Nawad.
6. Block Development Officer, Sirdala, Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Awadhesh Kumar, Adv.
For the Respondent/s	:	Mr. Md. Khurshid Alam (AAG 12)
	:	Mr. Nutan Sahay, AC to AAG12.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 15-09-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

2. Counsel for the petitioner submits that the present writ petition has been filed seeking direction to the respondents to restrain from construction of Primary Agricultural Credit Society (PACS) godown and rice mill of the raiyati land of the petitioner. Counsel submits that the land in question is situated in Mauja- Koldiha, Circle- Sirdala, bearing Revenue Thana No. 82, Khata No.- 160 Area- 13 acre 64 decimal.

3. Counsel submits that the petitioner was enjoying the land in question without any reference and rent receipts is in his favour, but recently he got information that Government is

going to construct rice mill and Primary Agricultural Credit Society (PACS) godown on his land. Counsel further submits that petitioner has neither given consent nor the respondent authorities have acquired the said land and forcefully constructed the Government's building on the said land. Thereafter, the petitioner has filed the present writ petition.

4. Counsel for the respondents has filed the counter-affidavit in this case, but prior to entering into the counter-affidavit, he submits that by making false representation before this Court, the petitioner has obtained order of *status quo* in this case vide order dated 08.05.2023.

5. Counsel for the State submits that one Rajendra Prasad Yadav, son of Kesho Prasad Yadav and Raghao Prasad Yadav, son of Chamari Prasad Yadav, Brahamdev Prasad Yadav, son of Hiranian Prasad Yadav had executed two free and voluntarily gift deeds in respect of Khata No. 34 (CS) – 160 (RS), Plot No. 746 (CS)- 815 (RS), Area 8 decimal and 14.5 decimal (i.e., total Area 22.5 decimal) in the year 1981 in favour of the State of Bihar.

6. Counsel for the State submits that in the content of the said gift deeds, it has been mentioned that gift was made for

the purpose of construction and establishment of Referral Hospital, Public School, Vegetable and Fruit Garden, Poultry and Fishery Carpentry, Tannery and other necessary departments and buildings. The copy of gift deeds is attached as Annexure- A and A/1 of the counter-affidavit.

7. Counsel for the State further submits that the petitioner has no right and title to raise any claim on the said gift deed which was executed in the year 1981 itself. Counsel also submits that learned counsel for the petitioner of the present writ petition has filed a public interest litigation before this Hon'ble Court in C.W.J.C. No. 3649 of 2023 with relief that villagers, namely, Ragho Prasad Yadav and Brahamdeo Prasad Yadav and others have donated the land in favour of the Governor of Bihar for medical purposes only and his said writ petition was dismissed as withdrawn vide order dated 18.04.2023.

8. Counsel for the State further submits that the petitioner is either one way or the other creating barrier in developing work which are being done by the State and submits that the petitioner has no *local standi* to raise such claim and his representation should be dismissed.

9. In response, counsel for the petitioner submits that petitioner is the coparcener of the donees and this donation

cannot be said to be valid as partition has not taken place and his share is also there in the donated property.

10. From the pleadings and the arguments, it transpires to this Court that the petitioner is unnecessary creating hurdle in the construction work on the land which had already been gifted to the State of Bihar in the year 1981 and the petitioner using the same lawyer is creating hurdle sometimes by way of filing P.I.L. and sometimes in the individual capacity. The argument made by the counsel for the petitioner is not acceptable to this Court due to the reason that no such pleading has been made in the writ petition about common share in property, but upon raising those points by the counsel for the State and counsel for the petitioner has come with new plea of joint property.

11. In view of this Court, the present writ application is frivolous and, therefore, stands dismissed.

12. The order dated 08.05.2023 is hereby vacated.

(Dr. Anshuman, J.)

prakashmani/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.09.2023
Transmission Date	NA