

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7931 of 2023

Dr. Jyoti Ranjan Prasad S/o Late Janardan Prasad, R/o Sabji Bazar, Jahanabad, PS-Jahanabad, District-Jahanabad, also residing in Flat No. 3G, Prestige Apartment, Road No. 2, Durga Mandir Road, Hirapur, Dhanbad, PS-Sadar, District-Dhanbad (Jharkhand), presently residing in Qr. No. P-1, as a Principal S.N.M.M.C. Campus, Saraidhala, Dhanbad (Mb No.-9431724564).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Deptt. of Irrigation, Govt. of Bihar, Patna.
2. The Principal Secretary, Deptt. of Irrigation, Govt. of Bihar, Patna.
3. Joint Secretary, Management, Deptt. of Irrigation, Govt. of Bihar, Patna.
4. Director, Land Acquisition and Rehabilitation, Deptt. of Irrigation, Govt. of Bihar, Patna.
5. District Magistrate-cum-Collector, Patna.
6. D.C.L.R.-cum-Land Acquisition Officer, Patna Sadar, Patna.
7. D.C.L.R., Patna City.
8. Executive Engineer, Punpun Flood Control Division, Patna City, Karbigahiya, Patna.
9. Amrita Sahkari Grih Nirman Samiti Patna through its Secretary, address-LIG-54, Kankarbagh Colony, Patna-20, Ps-Kankarbagh, District-Patna (Mb No. 7599197990).
10. Dr. Umesh Prasad, Secretary, Amrita Sahkar Grih Nirman Samiti, Patna, LIG-54, Kankarbagh Colony, Patna-20, PS-Kankarbagh, District Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar Sinha Mr. Arvind Kumar Sharma Mr. Chetan Kumar Ms. Chhitiz Parashar
For the Respondent/s	:	Mr. Vikash Kumar (Sc 11)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 11-12-2023 Heard learned counsel for the parties.

2. In the instant writ application, petitioner prays for a direction to the respondent authority particularly Respondent No. 8, not to use the land of the petitioner situated in Mauza-



Pahari, Khata No. 247 part of S. P. No. 1431, measuring an area of 2714 sq. ft. equivalent to 6.23 decimals in construction of Badsahi Drainage. He further prays for a direction to the respondent authority to forbear Respondent No. 8 from ongoing construction of the said drainage and hand over the land in question to the petitioner by making payment of the compensation for the damages done to the land of the petitioner and stay the ongoing construction of said drainage till disposal of the writ petition.

3. The case of the petitioner, in brief, is that he purchased the land in question under the sale deed dated 07.07.1991 for consideration amount of Rs. 58,000/- executed by the Secretary, Amrita Sahkari Grih Nirman Samiti, Patna (Respondent Nos. 9 and 10) who had purchased the same under registered sale deed No. 4410 dated 19.08.1989 and came in exclusive possession thereof. The petitioner after the said purchase came in possession of the aforesaid land in question and got his name mutated under an order dated 22.11.2004 passed by the Anchal Adhikari, Patna Sadar on Mutation Case No. 994/05 of 2004-05 dated 22.11.2004 and Jamabandi No. 288 corresponding to new Jamabandi No. 3805 was opened in name of the petitioner and the State of Bihar started issuing the



rent receipts to the petitioner continuously since the date of the order of mutation. In the month of May, 2021 petitioner came to know that drainage was being dug passing through the aforesaid land of the petitioner therefore, he filed an application under the Right to Information Act on 23.06.2022 in the office of the DCLR, Patna City, who in turn under his letter contained in Memo No. 1069 dated 06.07.2022 referred the matter to the Public Information Officer-cum-District Land Acquisition Officer, Patna. In the meantime, petitioner came to know that digging work of the drainage called Badshahi Nala was being carried out on the land of the petitioner by the Executive Engineer, Punpun Flood Control Division, Patna (Respondent No. 8) therefore, the petitioner requested respondent No. 8 to stop the said digging work of the drainage. In spite of repeated requests of the petitioner to the respondent authority to make payment of compensation for the damage done to the land of the petitioner, Respondent No. 8 has not responded to the grievance of the petitioner.

4. A counter affidavit has been filed on behalf of respondent Nos. 1, 2, 3 and 8. Learned counsel for the State contends that this writ petition is not maintainable on the ground of delay and laches. The process of land acquisition in



connection with the land in question along with other land had been initiated in the year 1978. Petitioner has raised the issue after lapse of 43 years and there is no plausible explanation for the delay and on this ground alone writ petition is fit to be dismissed. In this connection he relies upon the judgment of Hon'ble Supreme Court in the case of **Surjeet Singh Sahni v. State of U.P. and Ors** (*reported in 2022 Live Law (SC) 232*). He next submits that the land including the land in question had been acquired for construction of Badshahi Drainage in the year 1978 *vide* L.A. Case No. 40/78-79. From the L.A. Case No. 40/78-79 it is very much evident that the part of the land bearing Khata No. 247, Khesra No. 1431 area 10 decimal was in the name of Hulash Ray, son of Hemraj Ray and Tejnarayan Ray son of Deepan Rai and the same was acquired *vide* Award No. 24. The part of land bearing Khata No. 247, Khesra No. 1431 area 18 decimal was in the name of Benami and the same was acquired *vide* Award No. 24/6. The part of the land bearing Khata No. 247, Khesra No. 1431, area 3 decimal was in the name of Rambali Ray and the same was acquired *vide* Award No. 24/14. It is submitted that *vide* Letter No. 368 dated 16.03.2023 the Executive Engineer, Punpun Flood Protection Division, Patna had served the copy of L.A. Case No. 40/78-79



along with connected map to the petitioner under the RTI Act as demanded by him. It is next submitted that from the sale deed dated 07.08.1989 (Annexure-1/A of the writ petition) as purchased by the Amrita Sahkari Grih Nirman Sammittee, it is very much evident that the Vendor of the said sale deed was not in the name of Hulash Ray, son of Hemraj Ray and Tejnarayan Ray son of Deepan Rai and Rambali Ray who was actual owner of the land in question in the year 1978 when the land was acquired *vide* different awards. It is pertinent to mention that the petitioner has mentioned in the present writ petition that he had purchased the land in question from Sahkari Grih Nirman Sammittee. From L.A. Case No. 40/1978-79, it is also evident that vendor of the petitioner or vendor of Amrita Sahkari Grih Nirman Sammittee was not the owner of the land in question. The department of deponent had already acquired the land in question from Hulash Ray, son of Hemraj Ray and Tejnarayan Ray son of Deepan Rai and Rambali Ray *vide* different Awards in the year 1978. He lastly submits that in view of the aforesaid facts and circumstance, petitioner is not liable for compensation for the land in question.

5. Having regard to the nature of controversy raised by the parties, such matter can only be conclusively determined



by Civil Court as it involves question of fact. Factual controversy cannot be adjudicated by the High Court in a writ jurisdiction.

6. This writ petition is, accordingly, dismissed with liberty to the petitioner to move before the appropriate forum as may be available to him in accordance with law.

(Prabhat Kumar Singh, J)

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