

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1102 of 2018

Lakkshmi Uronv son of late Indra Uronv resident of village - Gamhariya, P.O.
- Sirsiyakala, Police Station - Bhargama, District - Araria.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar,
3. The District Land Acquisition Officer, Koshi Project, Saharsa.
4. The Special Land Acquisition Officer, Koshi Project, Saharsa.
5. The District Land Acquisition Officer, Koshi Project, Supaul.
6. The Special Land Acquisition Officer, Koshi Project, Supaul.
7. The District Land Acquisition Officer, Koshi Project, Araria.
8. The Special Land Acquisition Officer, Koshi Project, Araria.
9. The District Land Acquisition Officer, Koshi Project, Purnia.
10. The Special Land Acquisition Officer, Koshi Project, Purnia.
11. The Collector, Saharsa.
12. The Collector, Supaul.
13. The Collector, Araria.
14. The Collector, Purnia.
15. The Executive Engineer, Jai Nishtaran and Anushandhan Pramandal, Purnia.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Veena Kumari Jaiswal, Advocate
For the Respondent/s : Mr. Rewti Kant Raman, AC to SC 11

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

7 04-05-2023 Heard learned counsel for the petitioner and learned
counsel for the respondents.

The petitioner has filed the instant writ application for



the following relief(s) :

“1. That this petition is being filed on behalf of the petitioner for issuance of an appropriate writ, order or direction directing the respondents to pay the compensation amount to the petitioner with up to date interest over the amount due for the lands belonging to the petitioner which has already been acquired by the respondents in the year 1980-81 and compensation has not been. paid as yet and since then the petitioner has been dispossessed from the land and land of the petitioner has already been used for construction of Kosi Canal/barrage in the locality and since then in spite of repeated requests made by the father of the petitioner no compensation has been paid as yet.”

The case of the petitioner in brief is that an area of 62 decimal of land belonging to the ancestors of the petitioner was acquired by the respondent sometime in the year 1980-81 for construction of kosi barrage/kosi canal. The land in question appertains to khata no. 175, khesra no. 483 situated at Gamrahiya, District of Araria.

Learned counsel for the petitioner submits that the kosi project was completed long back, however no compensation has been paid to the petitioner till date. From the copy of the notice dated 27.3.1992 it transpires that the area of 62 decimal of the



petitioner's land had been utilized. Learned counsel for the petitioner in support of his contentions relies on the direction of this Court in similar matter passed by order dated 28.3.2012 in CWJC no. 9968 of 2006 (Annexure-2).

A counter affidavit has been filed in the case on behalf of respondent nos. 1, 2 and 4 sworn by the Special Land Acquisition Officer, Kosi Project, Saharsa. The stand of the respondents in the said counter affidavit is to the effect that a requisition was sent by the Executive Engineer, Drainage Investigation Division, Kosi Project, Banmankhi, District Purnea vide its letter dated 28.11.1982 to the Special Land Acquisition Officer, Kosi Project Bathnaha. On the basis of the requisition, a notification was issued vide letter dated 31.10.1990 under the signature of the Additional Collector, Purnea and the SLAO, Kosi Project and the same was also published in the daily newspaper on 18.7.1991. As the award was not prepared, the acquisition proceeding lapsed on 2.10.1994. It is further stated by learned counsel for the respondents that several letters were written to the Executive Engineer, Irrigation Division, Banmankhi, Purnea requesting him to send utilization report as to whether the land in question was required to be acquired or not. No reply nor utilization report having been received, no



further steps were taken. It is further categorically stated by the respondents that answering respondents have not taken possession of the land in question. The land in question is still vacant and cultivated by the petitioner and the petitioner is the legal owner and in continuous possession over the land in question. Thus, it was stated that the petitioner continuing in possession, there was no award prepared in the name of the petitioner and no compensation amount was paid to him.

As a result of the conflicting stand of the parties, taking note of the statement made in paragraph nos. 4 to 8 of the writ petition as also paragraph nos. 12 and 17 of the counter affidavit of the respondents, this Court by order dated 27.2.2023 directed the Collector, Araria to get the matter examined and to submit a report. For ready reference paragraph nos. 4 to 8 of the writ application is quoted herein below :

“ 4. That an area of 62 decimal of land belonging to the ancestor of the petitioner (father and grandfather of the petitioner) had been acquired by the respondents for construction of Kosi barrage/canal in the year 198-81 bearing Khata No.175, Khesra No.483, situated at Gamrahiya and thereafter the respondents have already taken physical possession of the land and dispossessed the petitioner from his land and the compensation of the said land has not been paid to



the petitioner and his brother as yet.

5. That the land in question belonging to the ancestor of the petitioner were agricultural land and two crops were used to be grown up yearly and that was the only source of livelihood of the petitioner and his family members.

6. That the aforesaid land was acquired by the respondents during the lifetime of father and grandfather of the petitioner.

7. That the land in question which had been acquired in the year 1980-81 and thereafter Kosi Barrage/Kosi canal had already been constructed over the land of the petitioner since long under Kosi Project but unfortunately the payment of compensation to the petitioner against the land acquired has not been made by the respondents on some pretext or the other.

8. That the petitioner has been able to traced out a notice No. 169 dated. 27.03.1992 from perusal of the same it is apparent that an area of 62 decimals of land appertaining to Khata No. 175 and Plot No. 483, Area 62 decimals land has been acquired and used for construction of Kosi Barrage/Kosi Canal”

Further paragraph nos. 12 and 17 of the counter affidavit of the respondent nos. 1, 2 and 4 are also reproduced herein below :-

“12. That it is humbly stated by the respondents that the answering respondent has not

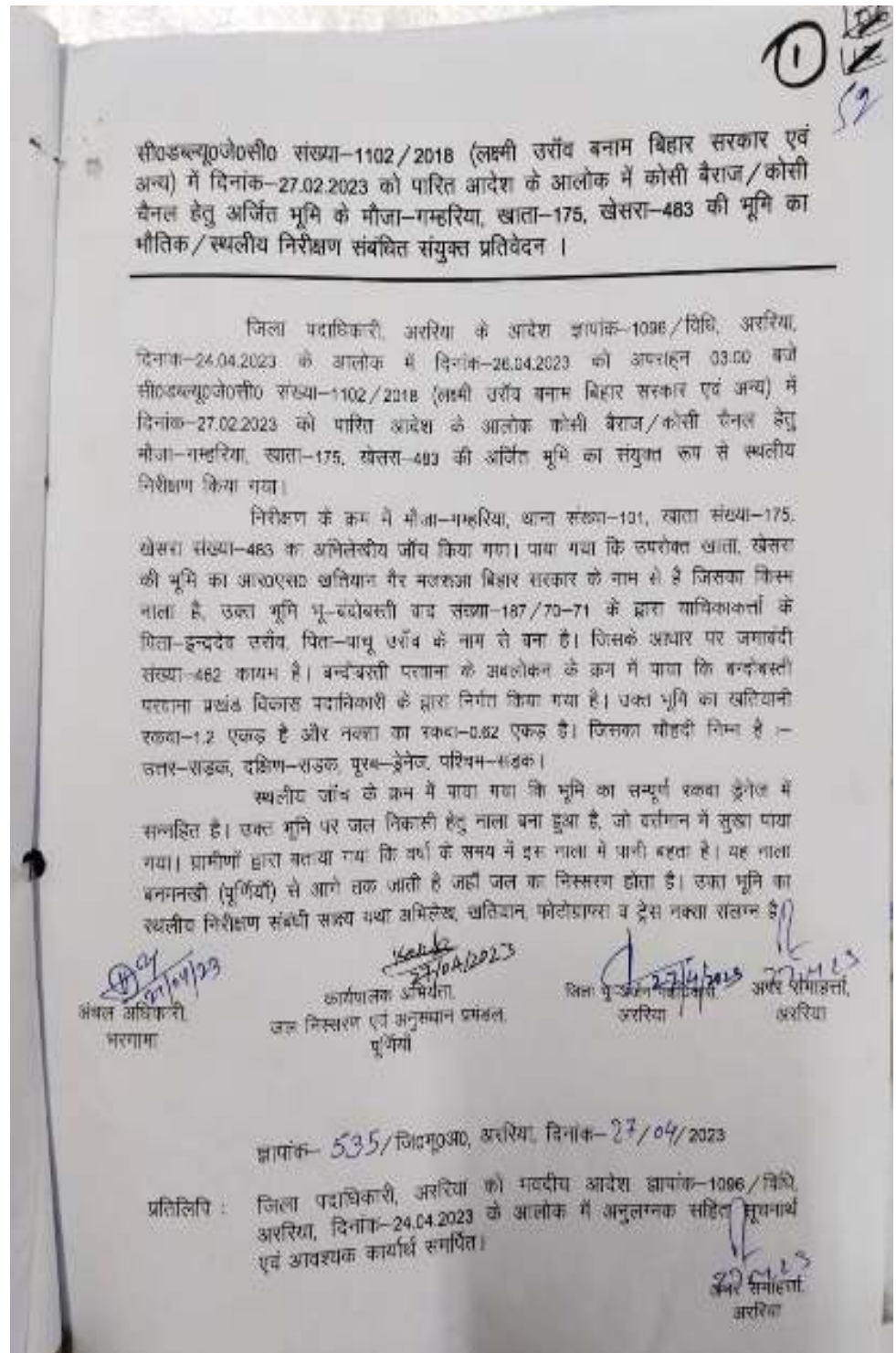


taken possession of land in question, the land in question is still vacant and cultivated by the petitioner and such the petitioner is legal owner and is in continuous possession over the land in question.

17. That in reply to statement made in paragraph no. 4 to 6 of the writ application under reply it is humbly stated that land in question was not taken, answering over possession respondent petitioner is lands by rather is in possession of the and his right, title remains with him. Hence, there was no awards prepared petitioner as in the name of compensation the the such amount was not paid to him.”

Pursuant to the direction of this Court, the District Magistrate, Araria has submitted his report contained in letter no. 1145 dated 2.5.2023 enclosing with the same a copy of the report dated 27.4.2023 submitted by the four member Committee constituted by him and which consists of the Additional Collector, Araria, the District Land Acquisition Officer, Araria, the Executive Engineer, Water Drainage and Research Division and the Circle Officer, Bhargama. A copy of the report of the four member Committee constituted by the District Magistrate, Araria is reproduced hereinbelow for ready reference :





Let a complete photocopy of the report submitted by the District Magistrate, Araria be handed over to the learned counsel for the petitioner as also learned counsel for the respondent appearing in the case.

From perusal of the said report it transpires that the



Committee is of the opinion that so far as the land in question with respect to the petitioner is concerned, the same is recorded as Gair Majarua Bihar Sarkar in RS Khatian and is described as nala. Further the same has been settled in favour of the father of the petitioner in Land Settlement Case no. 187 /70-71 on the basis of which Jamabandi no. 462 has been opened. Total area of land is 1.2 acres. The Committee further states that in the inspection it transpired that there is a drain/nala on the land in question and which at the moment is dry. The members of the Committee were informed by the villagers that in the rainy season, water flows in the said nala and goes towards and further than Banmankhi (Purnea) where the water drains.

Having heard learned counsel for the parties and having perused the material on record especially the contents of the report dated 27.4.2023 of the Committee constituted by the District Magistrate, Araria, there remains no doubt that the land in question was settled in favour of the petitioner's father in the year 1970-71 and a Jamabandi was also opened in his name. There also remains no doubt to the effect that the land has been utilized by the respondent authorities for making of nala/canal as found by the members of the Committee and wherein the water flows and drains in the rainy season.



At this stage it would be important to take note of the fact that in view of the report of the Committee, the statements made in the affidavit filed on behalf of the respondents, paragraph nos. 12 and 17 of which are quoted herein above are clearly incorrect statements. The Court is not entering into the consequence of the same, however the petitioner will always be at liberty to move an appropriate application in future as advised.

It is directed that the respondent authorities shall immediately start a proceeding for acquisition of the land in question of the petitioner, take the same to its logical conclusion and pay the compensation to the petitioner within a period of six months from today.

This writ application stands allowed with the above observations and directions.

(Partha Sarthy, J)

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