

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1127 of 2018

=====

Harendra Prasad Yadav, S/o Late Mahadeo Rai, resident of Village- Chilraon,
P.O.- Jai Singhpur, P.S.- Turkolia, Anchal- Turkolia, District- East
Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar, the Collector, East Champaran, Motihari.
2. The Collector, East Champaran, Motihari.
3. The District Land Acquisition Officer, East Champaran, Motihari.
4. The Deputy Collector, Land Reforms, Sadar, Motihari.
5. The Anchaladhikari, Turkoila, District- East Champaran, Motihari.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Upendra Prasad, Advocate Ms. Veena Kumari Jaiswal, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy, GP-18

=====

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

6 25-04-2023 Heard learned counsel for the petitioner and learned
counsel for the respondents.

The petitioner has filed the instant application for the
following relief(s):-

*“That this writ petition is being filed on
behalf of the petitioner for issuance of an
appropriate writ, order or directions commanding
the respondents and to direct them to allot 35 dhoors
of land of the petitioner appertaining to Khata no.
658, Plot No. 2091 and 2092 under Thana No. 100,
Tauzi No. 95, which has been occupied by the
respondents for construction of government road
from Motihari to Areraj Main Road without any*



notice or knowledge to the petitioner, which is equivalent to 35 dhurs of land of the petitioner which has already occupied and Motihari- Areraj Main Road has already been constructed and is in public use. Instead of payment of compensation the said land of the petitioner.”

It is the case of the petitioner that the petitioner happens to be the owner of an area of 35 dhurs of land appertaining to Khata No.658, *Khesra* nos.2091 and 2092 in *Thana* no.100, *Tauji* no.95 situated in village Turkolia. The respondent authorities in construction of the road from Motihari to Areraj main road via Turkolia Bazar has used the aforesaid land of the petitioner without having initiated any proceeding for acquisition. It is for this reason that the instant writ application was filed by the petitioner for the relief as quoted herein above.

It is submitted by learned counsel appearing for the respondents that a counter affidavit and a supplementary counter affidavit has been filed. In paragraph no.7 of the supplementary counter affidavit filed on behalf of respondent nos.3 to 5, it has categorically been stated that both plot nos.2091 and 2092 are *gair-mazarua* land which vested in the State of Bihar. Since the plots do not belong to the writ petitioner and the same was



government land, there was no occasion for acquisition or any notice to the petitioner. The petitioner is laying false claim.

At this stage, learned counsel for the petitioner submits that although time was granted to the petitioner to respond to the said supplementary counter affidavit by order dated 17.4.2023, however, as per instructions received, in view of the serious illness of the petitioner who is reported to be hospitalized, no response could be filed. Learned counsel further refers to the copy of the notice contained in Memo no. 251 dated 21.2.2023, issued by the Circle Officer, Turkolia, East Champaran and a copy of which has been brought on record as Annexure-R3 to the supplementary counter affidavit of the respondents to submit that the Circle Office taking note of the pendency of the writ application has directed the petitioner to produce before him with all the relevant documents with respect to the land being claimed by the petitioner which is the subject matter of the instant application. Learned counsel submits that the petitioner will produce all the relevant documents with respect to the land before the Circle Officer concerned who may be directed to take note of the same, to decide the matter and thereafter to take appropriate steps for acquisition of the petitioner's land.



Having heard learned counsel for the parties and taking into consideration the averments made in the writ application, the materials on record, the submissions made by the parties as also the notice dated 21.2.2023 (Annexure-R3) issued by the Circle Officer, Turkolia, East Champaran, the instant writ application is disposed of directing the petitioner to approach the said Circle Officer (respondent no.5) with all the relevant documents in support of his case with respect to the land in question as described herein above.

The Circle Officer concerned shall examine the matter and thereafter pass appropriate orders in accordance with law.

It goes without saying that in case the claim of the petitioner with respect to his title over the land in question is found to be correct, the respondents shall take immediate steps for acquisition of the land in accordance with law and for payment of compensation to the petitioner.

The writ application stands disposed of with the above observations and directions.

(Partha Sarthy, J)

avinash/-

U			
---	--	--	--

