

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5159 of 2018

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Pawan Kumar Thakur, Son of Krishna Chandra Thakur, Resident of Village-
Raghauli, Police Station- Bisfi, District- Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Engineer-in-Chief, Rural Works Department, Vishvasaraiya Bhavan,
Bailey Road, Patna.
3. The Executive Engineer, Rural Works Department, Work Division Benipatti,
Madhubani.
4. The District Magistrate, Madhubani.
5. The Sub-Divisional Officer, Benipatti, Madhubani.
6. The Circle Officer, Bisfi Circle, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Archana Sinha, Advocate

For the Respondent/s : Mr. Prem Ranjan Raj, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 05-09-2024 Heard Ms. Archana Sinha, learned Advocate for the

petitioner and Mr. Prem Ranjan Raj, learned Advocate for the

State.

2. The petitioner has invoked the jurisdiction of this

Court seeking a direction upon the respondent to ensure
payment of compensation to the petitioner for the land situated
at Mauza-Raghauli, Thana No. 164, Khata No. 695, Khesara
No. 4642, 4643, 4645,4652 over which a road has been
constructed by the respondent authorities.

3. Learned Advocate for the petitioner vigorously
contended that the petitioner is a rightful owner of the land
admeasuring 11 decimal, the particulars of which has been



mentioned in paragraph no. 4 of the writ petition and he has been coming in peaceful possession since long.

4. It is the contention of learned Advocate for the petitioner that a road from Kokila Chouwkh to Usauthu-Singia was being constructed by the Rural Works Department, passing through the land of the petitioner, without there being initiation of any land acquisition or consent of the petitioner and his forefather.

5. The petitioner protested the construction of the road over his land and submitted representation before the Circle Officer, as well as, District Magistrate, to ensure compensation for the land which has been forcefully taken away.

6. A counter affidavit has been filed on behalf of respondent no. 1 to 3. It has categorically admitted that the road has been constructed over the old existing road, being used as thoroughfare by the villagers since long past. However, the land in question was measured by the Circle Officer, who submitted his report from which it appears that 11 decimal of the land of the petitioner has been existing in road. The steps are being taken to remove the road from raiyati land of the petitioner.

7. It has also been contended that there is no provision for payment of compensation for construction of road under Mukhya Mantri Gram Sampark Yojna (MMGSY) scheme as per



instruction the road has to be constructed in either on old existing road or with consent of raiyat, if the raiyati land is acquired.

8. Further a supplementary counter affidavit has also been filed on behalf of respondent no. 2 and 3 and averments have been made that in compliance of the order of this Court dated 01.08.2024, the Executive Engineer, Rural Works Department, Works Division, Benipatti visited on the site and enquired about the road from the local villagers and also contacted the local MLA, who has affirmed that the road in question has been constructed over the old existing road which had been used by the local villagers.

9. Having considered the submissions advanced on behalf of the parties and taking note of the materials available on record; one thing which is apparent that the construction of road can only be allowed on the old existing road or with the consent of the raiyat, if raiyati land is acquired.

10. The report of the Circle Officer clearly suggest that 11 decimal of the land of the petitioner has been existing in road since so many years. In such circumstances, either the consent of the petitioner is required or in case there is no consent, the construction must be removed. Nonetheless if the construction is not to be removed, then the petitioner is entitled



to get compensation.

11. In no circumstances the petitioner can be deprived from his property without authority of law; the Constitutional right to property can not be interfered with in a casual manner. A person can only be deprived of his property through an Act passed by the Parliament/State Legislature and not by executive order or fiat.

12. Be that as it may, in order to resolve the dispute, this Court directs the District Magistrate, Madhubani to look into the matter, in the light of the report of the Circle Officer, as well as, the revenue record brought by the petitioner in the writ petition and ensure either the compensation of the land or to remove the construction over the land of the petitioner, in accordance with law.

13. The entire exercise must be completed preferably within a period of three months from the date of receipt/production of a copy of this order.

14. The writ petition stands disposed off.

(Harish Kumar, J)

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