

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9358 of 2016

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1. Uma Shankar Arya and Ors S/o Late Nandu Lal Mahto
 2. Kesho Mahto S/o Late Ram Khelawan Mahto
 3. Daya Shankar Prasad, S/o Late Nagaendra Mahto All are resident of Mohalla- Kurjee, Gate No.- 66, P.O.- Sadaquat Ashram, P.S.- Digha, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Commissioner-cum-Secretary, Department of Land and Revenue, Govt. of Bihar, Patna
3. The District Magistrate, Patna
4. The Land Acquisition Officer, Patna
5. The Circle Officer, Patna Sadar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr. Abhinav Alok, AC to AAG-13

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 21-02-2024 No one appears on behalf of the petitioner though
learned counsel for the State is present.

2. The present writ petition has been preferred for the
following relief:

*“(i). To issue a writ in the nature of
mandamus commanding the Respondents
No. 3 to 5 to not interfere with the lands
bearing (i) Plot No. 196, 20 appertaining an
area of 12 Bigha 04 Katha 02 Dhurs
running in the name of Shri Ram Prasad*



Mahto, S/o - Late Bulkan Mahto, (ii) Plot No. 19 & 20 appertaining an area of 04 Bigha 01 Katha 11 Dhurs running in the name of Simrakhiya Devi, W/o-Late Bhekh Narayan Mahto & (iii) Plot No. - 19 & 20 appertaining an area of 08 Bigha 13 Katha 01 Dhurs running in the name of Late Ram Khelawan Mahto, S/o Late Bulkan Mahto, as the revenue receipts upto year 2000-01 (Annexure- series) were issued in favour of the father and grandfather of the petitioners.

(ii). To issue a writ in the nature of mandamus commanding the Respondents No. 3 to 5 to not interfere with the lands bearing (i) Plot No. 196, 20 appertaining an area of 12 Bigha 04 Katha 02 Dhurs running in the name of Shri Ram Prasad Mahto, S/o Late Bulkan Mahto, (ii) Plot No. 19 & 20 appertaining an area of 04 Bigha 01 Katha 11 Dhurs running in the name of Simrakhiya Devi, W/o Late Bhekh Narayan



Mahto & (iii) Plot No. - 19 & 20 appertaining an area of 08 Bigha 13 Katha 01 Dhurs running in the name of Late Ram Khelawan Mahto, S/o Late Bulkan Mahto, as Form "M" (Annexure -) clearly postulates regarding rent roll showing fair and equitable rent determined under Sections 5, 6 & 7 of the Bihar Land Reforms Act with respect to Tauzi No. 5085/274 dated 17.09.1963.

(iii). To issue a writ in the nature of mandamus commanding the Respondents No. 3 to 5 to not interfere with the lands bearing (i) Plot No. 196, 20 appertaining an area of 12 Bigha 04 Katha 02 Dhurs running in the name of Shri Ram Prasad Mahto, S/o Late Bulkan Mahto, (ii) Plot No. 19 & 20 appertaining an area of 04 Bigha 01 Katha 11 Dhurs running in the name of Simrakhiya Devi, W/o-Late Bhekh Narayan Mahto & (iii) Plot No. - 19 & 20 appertaining an area of 08 Bigha 13 Katha



01 Dhurs running in the name of Late Ram Khelawan Mahto, S/o Late Bulkan Mahto, as Register "D" (Annexure) of Tauzi No. 5085 was running in the name of Late Ram Khelawan Mahto & Late Ram Prasad Mahto.

(iv). To issue a writ in the nature of mandamus commanding the Respondents to not interfere with the land of the petitioner, as admittedly, the lands in question are/is in peaceful and uninterrupted possession of the petitioners, but the Respondent Authorities without taking any legal recourse, pertaining to Land Acquisition Act adamant to construct the Water Treatment Plant and Merine Drive (Jai Prakash Path) over the lands of the petitioners.

(v). Any other relief or reliefs in view of the right title and interest subsists in favour of the petitioners.

3. Learned counsel Mr. Abhinav Alok, AC to AAG-13 has taken this Court to paragraph-4 which reads as follows:



“4. That before proceeding to reply the statements made in the instant writ application, the deponent would like to place the factual as well as legal preposition for just and proper adjudication of the same.

(i). The instant writ petition has been filed by the petitioners commanding the respondents not to interfere with the land bearing Plot No-196, 19 & 20 belongs to them as also the revenue receipt up to year 2000-2001 were issued in favour of their father and grandfather situated at Thana No-141 for construction of Water Treatment Plant & Marine Drive (Jai Prakash Path).

(ii). The Secretary", Road Construction Department, Bihar, Patna has submitted requisition to acquire the land for construction of Ganga Drive Way from Digha to Deedarganj at Patna. The lands of different Mauza are in that requisition.

(iii). The land of Mauza- Digha Diyara, Thana No-141 area 49.5185 acre



land which are government land are under the alignment of Ganga Drive Way from Digha to Deedarganj at Patna. The said 45.5185 acre government land situated at Mauza-Digha Diyara Thana No-141 have transferred been to the requisitioning authority i.e. the Road Construction Department, Bihar, Patna for construction of Ganga Drive Way from Digha to Deedarganj at Patna vide letter no-2656 dated 28.09.2012.

(iv). From the perusal of the aforesaid letter, it is transpired that total area 01 acre in Plot No-19 and total area 01 acre in Plot No.20 is the government land. However, only 16 decimal in Plot No.19 and 18.50 decimal in Plot No.20 has been transferred. Thus, the entire area of Plot No.19 & 20 is the government land. Therefore, the contention of the petitioners that they are land owner of Plot No.19 & 20 is not acceptable. Further, it is submitted that Plot No- 196 has



neither been acquired nor transferred.”

4. This counter-affidavit was served upon the petitioner on 16.08.2017 and there is no rejoinder to the said averment made by the State.

5. Accepting the word of the State, no case is made out.

6. Be that as it may, since no one has appeared, the present writ petition is dismissed for non-prosecution.

(Rajiv Roy, J)

Adnan/-

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