

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8485 of 2021

Mamta Agrawal, wife of Chandan Kumar Agrawal, being Shabeit of Sri Radha Krishna Khaki Gosai Temple, aged about 48 years, female, resident of ward no. 22, Police Station-Bhabua, District-Bhabua, Kaimur.

... .. Petitioner

Versus

1. The State of Bihar through Revenue and Land Reforms Department, Government of Bihar, Old Secretariat, Patna-800 015.
2. The Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Old Secretariat, Patna-800 015.
3. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna-800 015.
4. The District Magistrate cum Collector, Bhabua, Kaimur.
5. The Land Acquisition Officer, Bhabua, Kaimur.
6. The Executive Engineer, Nagar Parishad, Bhabua, Kaimur.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Abhishek Kumar, Advocate
For the Respondents	:	Mr. Lalit Kishore (AG)
For the Nagar Parishad	:	Mr. Nikesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

13 13-02-2024 Heard learned counsel for the petitioner and learned counsel for the State.

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

"That the instant writ application has been preferred for issuance of appropriate writ(s), order(s) and/or directions(s):

A. In the nature of Mandamus, directing the respondents, to call for, the entire records, relating to acquisition proceeding, of land, pertains to, Thana No. 491, Khata No.



355, Plot No. 236/237, admeasuring 3 decimals situated at Bhabua, Kalmur:

B. In the nature of Mandamus, further direction, the respondents, after determining, the amount of compensation, in terms of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, to make the payment of such compensation to the petitioner: And/or for any other relief for which the petitioner may be found entitled to in the facts and circumstances of the present case."

3. Learned counsel for the petitioner submits that a Title Suit No. 37 of 1981 was preferred before learned Munsif, Bhabua by Late Badri Prasad, who was the grandfather of the late husband of the petitioner (namely, Chandan Kumar Agrawal) with a prayer to declare the temple as a private temple, which was dismissed on 11.04.1991.

4. Aggrieved, an appeal was preferred *vide* Title Appeal No. 19/21 of 1991/2003 and the learned Additional District and Session Judge, II, Bhabua, Kaimur *vide* an order dated 10.09.2004, set aside the original order declaring the temple to be a private temple belong to the family of the petitioner.

5. Thereafter, following the order in Title Appeal, the Manager of the Sri Radha Krishna Kahki Gosai Temple filed



petition before the Circle Officer, Bhabua for mutation of the name in respect of the said holding which resulted into *Jamabandi* no. 99, whereafter rent was being deposited.

6. The case of the petitioner is that in the year 2010, the Nagar Parishad, Bhabua, without initiating an acquisition proceeding constructed a public road over the land. Before doing so, neither any notification was issued in line with the Land Acquisition Act nor any compensation was paid to the interested parties.

7. An application was preferred before the Sub-Divisional Officer, Bhabua for measurement of the Road in which an order passed for the measurement of the land. Accordingly, the measurement was done and as per the report, PCC road have been constructed over the land.

8. Thereafter, late Chandan Kumar Agrawal made an application under the Right to Information Act, 2005 relating to the construction of the road but did not get any response. In the meantime, Chandan Kumar Agrawal died and this petitioner being his wife started pursuing the matter and as the respondents failed to act, the writ petition has been filed.

9. Learned counsel for the petitioner submits that admittedly, when the family succeeded in the Title Appeal, as



aforesaid, *Jamabandi* created, the Nagar Parishad had no business constructing the road on the land without taking steps under Land Acquisition Act and/or compensating the families.

10. A counter affidavit has been filed on behalf of the respondent no. 6 duly put on affidavit by the Executive Officer, Nagar Parishad, Bhabhua, Kaimur. Learned counsel straightaway took this Court to an order of Patna High Court in Second Appeal no. 363 of 2004 preferred by Narendra Kumar Tiwary & Ors. against the husband of the petitioner, namely, Chandan Kumar Agrawal being aggrieved by the order passed in Title Appeal No. 19/21 of 1991/2003. He submits that in the said Second Appeal, an application was filed with a prayer to restrain the respondents from alienating the land as after succeeding in Title Appeal, without waiting for the outcome of the Second Appeal, they are selling the property. This Court after hearing the parties as also after taking notice of the fact that the appeal has been admitted on 22.05.2009 *vide* an order dated 07.08.2013 restrained the respondent (Chandan Kumar Agrawal) from further selling the suit property during the pendency of the Second Appeal without permission of the Court.

11. Learned counsel submits that this fact was



suppressed by the writ petitioner in the present writ petition, despite having complete knowledge of the same.

12. The facts of the case has been incorporated in the earlier paragraphs, which clearly show that the petitioner took pains to record that a Title Suit was filed, which went against him, he preferred Title Appeal where he succeeded and thereafter, the story moves to his prayer about filing of the application relating to creation of *Jamabandi* followed by rent receipts and so on. However, with clear intent, the fact about pendency of Second Appeal no. 363 of 2004 where he has been restrained from selling further property was not incorporated.

13. Para 19 of the counter-affidavit of respondent no. 6 reads as follows:

"That the statement made in Para no. 17, it is humbly submitted that the act of answering respondent is not arbitrary and could not violate the mandate of law. It is necessary to mentioned here that the petitioner concealed the fact regarding Trust matter which is pending before this Hon'ble Court as SA No. 363 of 2004 and trying to grab government money anyhow by making pressure through writ and on the basis of false, fabricated statement & documents and trying to mislead this Hon'ble Court."



14. This counter-affidavit was filed on 13.09.2022 and no rejoinder has been filed by the petitioner.

15. Admittedly, the Second Appeal is still pending where the petitioner's husband was restrained from selling the property. In the aforesaid facts and circumstances, the claim of the petitioner is fit to be rejected as she has deliberately chosen to suppress the material facts from the eyes of Patna High Court.

16. The writ petitioner is misconceived, ill-advised and for deliberate suppression of facts, it is accordingly dismissed with a cost of Rs. 5,000/- to be deposited with the Bihar State Legal Services Authority within a period of 4 weeks from today.

17. List this case under the heading "To be Mentioned" after six weeks.

(Rajiv Roy, J)

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