

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10221 of 2021

1. Dinanath Singh son of Late Ramchandra Singh resident of Village and PO.- Sanjha Ghat, Revenue Village- Rajghat Garail, Police Station- Mirganj, Anchal- Dhamdaha, District- Purnia.
2. Raghvendra Kumar Singh son of Shri Dinanath resident of Village and PO.- Sanjha Ghat, Revenue Village - Rajghat Garail, Police Station- Mirganj, Anchal - Dhamdaha, District- Purnia.
3. Vijendra Kumar son of Shri Dinanath resident of Village and PO.- Sanjha Ghat, Revenue Village - Rajghat Garail, Police Station- Mirganj, Anchal - Dhamdaha, District- Purnia.
4. Gyanendra Kumar Singh son of Shri Dinanath resident of Village and PO.- Sanjha Ghat, Revenue Village - Rajghat Garail, Police Station- Mirganj, Anchal - Dhamdaha, District- Purnia.
5. Santosh Kumar Singh son of Shri Dinanath resident of Village and PO.- Sanjha Ghat, Revenue Village - Rajghat Garail, Police Station- Mirganj, Anchal - Dhamdaha, District- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Purnia, At and Po - Purnia, District- Purnia.
2. The Executive Engineer, Rural Works Development Division, Dhamdaha, District- Purnia.
3. The District Land Acquisition Officer, Purnia, District- Purnia.
4. The Circle Officer, Dhamdaha, At and PO- Dhamdaha, District- Purnia.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Jitendra Kumar
For the Respondent/s : Md. Khurshid Alam, AAG-12

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 24-10-2024 1. Heard learned counsel for the petitioners and learned
AAG-12, Md. Khurshid Alam.

2. Learned counsel for the petitioners submits that the instant writ application has been filed seeking a direction upon the respondent authorities to determine the compensation



amount in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "RFCTLARR Act, 2013") and to compensate the petitioners for construction of PCC road by the respondent No. 2, the Executive Engineer, Rural Works Development Division, Dhamdaha, District- Purnia over raiyati land of the petitioners appertaining to Khata No. 840/847, Plot No. 1273 area about 12 decimal, Khata No. 488, Plot No. 402, 422 area 51.5 decimal, Khata No. 1144, Plot No. 3944 area about 40 decimal, Khata No. 488, Plot No. 402, 422, area about 146 decimal and Khata No. 488, Plot No. 400, 402, 422 area about 86 decimal without initiating any proceeding for acquisition of the land in question and without giving any compensation to the petitioners, further to hold that construction of public road over raiyati land of the petitioners without initiating any land acquisition proceeding and without making any payment of compensation is illegal and violative of Article 300-A of the Constitution of India.

3. The learned counsel next submits that the rayati land of the petitioners as recorded hereinabove stands usurped by the State illegally and in complete breach of the provisions of the RFCTLARR Act, 2013. It is submitted that right to property



may not be a fundamental right but then is a constitutional right and the constitutional right cannot be taken away in a manner which is unknown to law.

4. At this stage, learned AAG-12 submits that a counter-affidavit has been filed on behalf of Respondent Nos. 1 and 4, duly sworn by Circle Officer, Dhamdaha, wherein at Para-11, it has been pleaded – That in compliance to the aforesaid letter the Circle Officer, Dhamdaha initiated Land Measurement Record No. 13/24-25 and the subject property upon which the road has been constructed was measured on 14-9-2024 and the Anchal Amin has submitted a report with a trace map (Report of Anchal Amin is annexed as Annexure-C).

5. Thereafter, at Para-12, it has been pleaded – That subsequently the Deputy Collector Land Reform, Dhamdaha submitted a report vide letter No. 1252 dated 19-9-2024 stating that during measurement the road has been constructed over part of landed property of Raghvendra Kumar singh, i.e. Petitioner No. 2 admeasuring 2 decimal and 5.5 decimal along with part of landed property of Gyanendra Kumar Singh, i.e., Petitioner No. 4 admeasuring 8.2 decimal and 2 decimal along with part of landed property of Santosh Kumar Singh, i.e., Petitioner No. 5 admeasuring 6.2 decimal, 2 decimal and 6 decimal.



6. It is next submitted that at para-13, it has been specifically pleaded – That no landed property of Dinanath Singh, i.e. Petitioner No. 1 and Vijendra Kumar, i.e., Petitioner No. 3 is used for constructing the road in question.

7. Learned AAG-12 next submits that at para-14 it has been pleaded – That the Collector, Purnea in view of the report submitted by the Deputy Collector Land Reform, Dhamdaha forwarded the same vide Memo No. 2239/Legal dated 20-9-2024 (Annexure-E) to the Executive Engineer, Rural Work Department, Work Division, Dhamdaha for necessary action.

8. Learned AAG-12 thus submits that in view of the counter-affidavit filed on behalf of Respondent Nos. 1 & 4, one aspect is clear that land of petitioner Nos. 1 and 3 of the instant writ application was not used for constructing the public land in question, but then fairly accepts and submits that part of the land of Petitioner Nos. 2, 4 and 5 as pleaded at para-12 & 13 of the counter affidavit was used for constructing the public road in question for which the petitioner Nos. 2, 4 and 5 are entitled for compensation.

9. Thereafter, the learned AAG-12 draws the attention of the Court to para-9 & 10 of the supplementary counter-affidavit filed on behalf of Respondent No. 2, wherein at para-9



it has been pleaded – That in compliance of the aforesaid direction the Executive Engineer, Rural Works Department, Works Division, Dhamdaha, Purnia vide his letter No. 1807 dated 24-9-2024 has made request to the Deputy Collector, Purnia to get the evaluation (MVR) of the land in question so that the compensation amount of the raiyati land of the petitioners may be determined.

10. Further at para-10, it has been pleaded – That in the facts and circumstances stated hereinabove it is very humbly submitted that the steps have already been taken for redressal of the grievance of the petitioners.

11. Learned AAG-12 thus submits that it is not in dispute as per the averment made in the counter affidavit filed on behalf of Respondent Nos. 1 & 4 that part of the land of petitioner nos. 2, 4 and 5 has been used for constructing the public road, further the authorities have got the matter inquired and are ready to compensate the petitioner Nos. 2, 4 and 5 for their loss of rayati land as pleaded at Para-9 & 10 of the supplementary counter-affidavit filed on behalf of Respondent No. 2.

12. Learned AAG-12 thus submits that no useful purpose would be served by keeping the writ application



pending and the writ application can be disposed of with a direction to the authorities to pay the compensation amount to Petitioner Nos. 2, 4 and 5 in lieu of their land, the learned counsel appearing on behalf of the petitioners also does not dispute the said submission of the learned AAG-12 and thus does not press the writ application with respect to Petitioner Nos. 1 and 3.

13. After considering the submission of the learned counsel appearing on behalf of the parties, the writ application is disposed of with a direction to the respondent Nos. 1 & 2 to ensure that the payment of the land used for constructing PCC road is paid to the petitioner Nos. 2, 4 & 5 within a period of four months from the date of receipt/production of a copy of this order.

14. Accordingly, the writ application is disposed of.

(Satyavrat Verma, J)

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