

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8691 of 2022

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Ramlal Paswan S/o Suryanath Paswan Resident of Ward No.-14, Village-Simradhi Post- Jonki, P.S.- Basopatti, District- Madhubani (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Madhubani.
2. The Collector of the District (D.M.), Madhubani.
3. The Sub-Divisional Officer (S.D.O.), Jainagar, Madhubani
4. The Anchala Adhikari (C.O.), Basopatti, Madhubani.
5. The National Highway Authority of India (NHAI), through its Project Director, NHAI, N.H. Division, Sitamarhi.
6. The Executive Engineer, N.H. Division, Sitamarhi.
7. Junior Engineer, (J.E.) N.H. Division, Sitamarhi.
8. The Competent Authority (Under the NH Act, 1956) cum District Land Acquisition Officer, NH 104 Project (227) Sitamarhi, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Nath Jha, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan (SC-25)
For the NHAI	:	Mrs. Soni Shrivastava, Advocate
		Mr. Gaurav Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

9 30-04-2024 Heard learned counsel for the petitioner, Mr. Shashi Nath Jha, Mr. Sajid Salim Khan, learned SC-25 as also Mr. Gaurav Singh representing the National Highway Authority of India (henceforth for short 'the NHAI').

2. On 12.02.2024, as also on 01.04.2024 detailed order was passed, taking notice of the fact that the house of the petitioner situated in plot No. 319 which is his *raiya* land was demolished without any notice and/or proceeding. The State-



respondents were directed to give specific reply to paragraphs-6 to 11 to the reply filed by the petitioner.

3. Today, second supplementary counter-affidavit on behalf of the respondent Nos. 2 to 4 and 8 has come duly signed by the Circle Officer, Basopatti, Madhubani and the reply to the paragraphs-6 to 11 have been inscribed in paragraphs 5 to 9 of the said affidavit, which read as follows:-

“5. That as far as the contained in Para-6 of averments the reply filed by the petitioner is concerned, it is submitted that the land appertaining to R.S. Khata No.-235, R.S. Plot No.-682 of Mauza Simaradhi is the land of the Government of India and it is free from acquisition and no land of Mauza Simradi, Anchal Basopatti, District Madhubani where the land of the petitioner situate has been acquired for the purpose of construction and widening of N.H.-104 as alleged by the petitioner.

6. That one hut of the petitioner was found over the aforesaid land on the stretch of N.H.104 on Government land, therefore,



ex-gratia amount of Rs. 88385/- paid was to the petitioner by the Ministry of Road Transport & Highways (MoRTH).

7. That the allegation of the petitioner in Para-7 and 8 of the reply filed by the petitioner is entirely wrong and incorrect version of facts. It is submitted that after publication of Gazette under section 3D of the National Highways Act, 1956 when the land vested in the Central Government the petitioner illegally raised construction over the land of N.H. 104 as such the authorities entered into the land and removed the encroachment from the land of N.H.- 104 in presence of Anchal Adhikari, Basopatti who was appointed as Magistrate and after removal of encroachment he submitted his report through 30.04.2022 No.-307 Letter the Sub Divisional Officer, Jaynagar and no structure was removed from Plot No.-319 alleged by the petitioner.

8. That as far as the averments



contained in Para-9 of the reply filed by the petitioner is concerned it is submitted that as stated above one hut of the petitioner was found over the R.S. Plot No.-682 on the stretch of N.H.-104 on Government land, therefore, ex-gratia amount of Rs. 88385/ was paid to the petitioner by the Ministry of Road Transport & Highways (MoRTH).

9. That the allegations of the petitioner in Para-10 ad 11 of the reply filed by the petitioner are entirely wrong and incorrect version of facts. It is submitted that no land of Mauza Simradi, Anchal Basopatti, District Madhubani where the land of the petitioner situate has been acquired for the purpose of construction and widening of N.H.-104 as alleged by the petitioner. As a matter of fact, one hut of the petitioner was found over the aforesaid land on the stretch of N.H.-104 on Government land, therefore, ex-gratia amount of Rs. 88385/- was paid to the petitioner by the Ministry of Road



Transport & Highways (MoRTH) ”

4. Learned SC-25 submits that in view of the categorical statement made in the present affidavit which has vetted by the District Magistrate, Madhubani, it is clear that contrary to the submission put forward by the learned counsel for the petitioner, no demolition has taken place in plot No. 319. He, further, submits that paragraph-8 of the writ petition which follows the photographs (Annexure-4 to the writ petition) does not provide the details of the land and in that background, it is disputed question of the fact which cannot be adjudicated under Article 226 of the Constitution of India.

5. Learned counsel appearing on behalf of the petitioner submits that the respondents have chosen to hoodwink the High Court by making such kind of statement. The fact remains that structure of the petitioner on plot No. 319 was demolished by the respondents illegally and without any notice/proceeding.

6. In the considered opinion of the Court, when a claim is being raised by the petitioner and disputed by the State inasmuch as categorical statement has been made in so many paragraphs, as incorporated above that no demolition took place on plot No. 319 owned by the petitioner, the same can be



adjudicated only before a competent Civil Court. Such issues cannot be decided in the present writ petition.

7. In that background, the writ petition stands disposed of keeping all issues that has been raised by the petitioner before the Writ Court open to him if he at all appears before a competent Civil Court for redressal of his grievance/damages/compensation against the State-respondents.

8. The present writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

Adnan/-

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