

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9595 of 2022

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Nand Lal Sah Son of Late Deba Sah, Resident of Village - Halim Tola, Police Station - Narhariya, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate-cum-Collector, Patna.
3. The Land Acquisition Officer, Siwan.
4. The District Collector Land Reforms, Siwan.
5. The District Panchayat Raj Officer, Siwan.
6. The Sub Divisional Magistrate, Siwan.
7. The Circle Officer, Barhariya, Siwan.
8. The Station House Officer, Barhariya, Siwan.
9. The Mukhiya, Lakri Gram Panchayat, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Harendra Prasad, Advocate
For the Respondent/s	:	Mr.Raj Kishore Roy (GP-18)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 30-01-2024

This writ application is being preferred for issuance of writ of mandamus directing the respondent no. 7 / Circle Officer, Barhariya, Siwan not to construct any road over the purchased land of the petitioner on the ground that no compensation has been paid to him.

2. It is the contention of the petitioner that the land in question situated at Thana No 288, Tauzi No. 1304, Khata No. 363, Survey Plot No. 6107, Area 3 Kattha 11.16 decimal, Mauza -



Lakri Tole, Halim Tola, Circle Barharia, District Siwan has been purchased by this petitioner and his brother namely Prabhu Nath Sah from one Shiv Kumar Dubey on 30.04.2011, over which, there is a house of the petitioner. Thereafter, the petitioner and his brother filed a Demarcation Case No. 47 of 2018 19 and their land was duly demarcated by the respondent no. 7/ C.O. on 11.02.2019. All of a sudden without acquisition of land of the petitioner, the respondent / State has initiated a proceeding under Section 133 Cr.P.C., vide Case No. 154/2022, and till date, same has not been disposed of.

3. In this case, a counter affidavit has been filed on behalf of respondent / State and by referring to certain paragraphs of the counter affidavit, learned State counsel submits that the present writ petition is misconceived and devoid of merit.

4. Initially, a proceeding under Section 133 Cr.P.C. was initiated, vide Case No. 154 of 2022 in respect of the land bearing Khata No. 373 Survey No. 6107 and Khata No. 329 Survey No. 6108 situated at Mauza- Takari Halim Tola, Anchal Basharla, Distt. - Siwan. The petitioner purchased the said land, vide sale-deed dated 30.04.2011 (Annexure-1 writ petition) and thereafter, blocked the pre-existing *Rasta* which was being used by the persons of the locality.



5. Learned State counsel further submits that the petitioner has wrongly pleaded that the proceeding under Section 133 Cr.P.C is still pending. In fact, the said proceeding has been disposed of by the learned SDM, Sadar Siwan, vide order dated 06.05.2022. Further, in paragraph – 6 of the counter affidavit, it is stated that the petitioner has also concealed the fact that against the findings of SDO, Siwan Sadar, the petitioner preferred Revision No. 134/2022, which was already stood dismissed by the learned Additional District & Session Judge- VI, Siwan, vide order dated 12.07.2022. The Revisional Court has upheld the order dated 06.05.2022 of SDM Siwan Sadar, that the petitioner created blockade of pre-existing road requiring removal. It is further stated that the order under Section 133 Cr.P.C of SDM, Siwan has been duly implemented by the C.O. Barharia, vide letter No. 456 dated 21.04.2023, whereby he has given necessary direction to SHO, Barharia.

6. Taking into consideration the entire facts and circumstances as also the controversy raised by the parties, this Court is of the opinion that the right, title and possession over the land in question cannot be dealt with by this Court on the basis of affidavits in the writ jurisdiction under Article 226 of the Constitution of India.



7. With above observation, the present writ petition is
dismissed.

(Prabhat Kumar Singh, J)

Anay

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	03.02.2024
Transmission Date	N/A

