

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9737 of 2023

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Nand Bihari Kumar @ Nand Bihari Kamat Son of Shiyaram Kamat, Resident of Ward No. 13 Suriyahi, Ramnagar, P.S. Phulparas District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary Land Reforms and Revenue Department Government of Bihar, Patna,
2. The Collector , Madhubani.
3. The Sub-Divisional Officer, Madhubani.
4. The Block Development Officer Phulparas, Madhubani.
5. The Circle Officer Phulparas, Madhubani,
6. The Officer In charge Phulparas, Madhubani.
7. The Mukhiya Gram Panchayat Ram Nagar, Phulparas Madhubani,
8. The Pramukh Phulparas Block, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gagan Deo Yadav, Advocate Mr. Ravi Prakash, Advocate Mr. Vinod Kumar, Advocate
For the Respondent/s	:	Mr. Udeshya Kumar Yadav, Advocate Mr. Rishi Raj Sinha (SC-19) Mr. Saurabh Kumar, AC to SC 19

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 29-03-2024 Heard learned counsel for the petitioner and the State.

2. The present writ petition has been preferred for:

*for issuance of an appropriate writ(s),
order(s), direction(s) authorities to the respondent
restrain the legal to construction of road over the
private land of petitioner bearing Khata No. 757
Khesra No. 3996, 3997, 3994 and 3975 and*



further for direction to the respondent authorities to take appropriate action regarding removal of encroachment from the above said land of petitioner.

3. It is the case of the petitioner that the aforesaid land is exclusive property of his family and without any approval/consent and/or taking 'No objection Certificate' road has been constructed and despite this petitioner running from pillar to post, the respondents are not paying any heed to it.

4. A counter affidavit on behalf of respondent nos. 2,3 and 5 is on record duly signed by the Circle Officer, Phulparas and they have taken a plea that under '*Mukhyamantri Kshetrya Vikas Yojna*' on the recommendation of the then Transport Minister, Bihar, the amount was sanctioned and as general consent was given by the villagers, the construction was made.

5. The petitioner claims that the land is *raiya* one and further according to him, the general consent does not mean that he has given up his rights and/or title on the said land. It is his categorical submission that he never gave consent.

6. Without his personal consent, any acquisition and/or grant of compensation, the road has been constructed. The Circle Officer, Phulparas was required to make specific



statement on the following points:

(i) whether the land on which the road has been constructed is '*raiyati*' land of the petitioner's family or not ?

(ii) in case the same has been constructed on his *raiyati* land, whether his/family members' consent was on record or not ?

(iii) whether in absence of consent, as a road has been constructed, in that case whether the same has to be removed and/or the family/petitioner has to be compensated or not ?

7. As he has chosen not to reply to all these facts essential for the disposal of the writ petition, a cost of Rs. 5000/- is imposed upon him namely, Shreenivash Kumar Singh, Circle Officer, Phulparas, Madhubani which has to be paid by him to the District Legal Services Authority, Madhubani.

8. In view of the fact that the counter affidavit show that it has been filed on behalf of Respondent nos. 2,3 and 5 i.e. Collector, Sub-Divisional Officer and Circle Officer, Madhubani instead of asking the Collector, Madhubani to file another affidavit, it would be appropriate that the writ petition stands disposed of with a direction to the petitioner to move before the



Collector, Madhubani along with all the relevant documents within a period of four weeks from today.

9. If the same is filed within the aforesaid period, the Collector, Madhubani has to answer to the questions that has been incorporated in the earlier paragraph no. 6 of the order and the said petition has to be taken to its logical conclusion within a period of six months thereafter.

10. The writ petition stands disposed of.

(Rajiv Roy, J)

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