

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9951 of 2023

=====

Rajan Tiwary Son of Late Bachcha Tiwary Resident of Mohalla Hajiyapur,
Ward No. 27, P.S.- Gopalganj, P.O.- Gopalganj, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Gopalganj.
2. The District Magistrate, Gopalganj.
3. The Municipal Commissioner, Municipal Corporation, Gopalganj.
4. The Municipal Executive Officer, Municipal Corporation Gopalganj.
5. The Circle Officer, Circle Gopalganj, District- Gopalganj.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Kumar Harshwardhan, Advocate
For the State	:	Mr. Abbas Haider, SC 6
For the Municipal Corp.	:	Mr. Rajesh Raj, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 16-07-2024 Heard learned counsel for the parties.

2. Petitioner has prayed for the following reliefs :

“i. Direction to the respondent authorities to stop construction of road and sewage on the private land of the petitioner i.e., his ancestral land appertaining to Khata No. 143, Khesra No. 581 situated at Mouza Sareya, Ward No. 2, Circle Gopalganj, District- Gopalganj and the land admeasuring an area of 7.25 Dhur, appertaining to Khata No. 2, Khesra No. 578, situated at ward No. 2, Mouza- Sareya, south to the N.H. 27 beside Mathiya Road, District- Gopalganj, immediately.

ii. Direction to the respondent authorities to



demolish the sewage and the road partially constructed including the soil filling, construction of road on the private land of the petitioner.

iii. Direction to the respondent authorities to pay compensation to the petitioner for illegal construction of road and sewage on his private land.

iv. For such other relief/reliefs for which the petitioner may be found entitled to in the facts and circumstances of the present case.”

3. If the contention of the petitioner is believed, it is unfortunate that on a private land, the Gopalganj Municipal Corporation has made construction. The petitioner with the help of sale deed claims that the khata No. 2, khesra No. 578, situated at Mouza Sareya, under ward No. 2, Circle and District Gopalganj, ad-measuring an area of 7.25 dhur of land belongs to him which was pursuant to a purchase made in the year 2002.

4. It is his submission that Municipal Corporation started construction of road and sewage on his private land and despite protest followed by legal notice, they continued to construct it. Left with no alternative, this writ application.

5. The copy of the writ petition was provided to the respondents in the month of July, 2023 and we are presently a year ahead but there is no reply from the Gopalganj Municipal



Corporation.

6. In that background, it would be appropriate that instead of waiting for the reply, a direction be issued.

7. The petitioner to approach the Municipal Commissioner, Gopalganj in next two weeks along with all the relevant documents to show that the Municipal Corporation has chosen to construct sewage and road on his land.

8. In case such petition is preferred in two weeks, the Municipal Commissioner will be duty bound to hold an enquiry with a team consisting of senior officials who shall visit the place and in presence of the petitioner, the measurement shall be taken and the report must clarify whether the construction so made is on a government land/municipality land or on the petitioner's land.

9. The petitioner after reading the same can put his signature on the same. Pursuant to the said report submitted before the Municipal Commissioner he shall take appropriate decision in as much as ;

(i) In case it is found that illegal construction has been made on the private land of the petitioner, he shall be duty bound to take remedial measure of removing the same and/or to negotiate with the petitioner on the compensation amount.



(ii) It is upto the petitioner to decide whether he accepts the compensation amount or insists for its removal, in case it is found that illegal construction has been made.

10. The entire exercise is to be completed by 31.12.2024.

11. The writ petition stands disposed of.

(Rajiv Roy, J)

Prakash/-

U			
---	--	--	--

