

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11765 of 2022

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Harish Mohammad Son of Md. Rizwan Khan Resident of Village- Majhuli
Mohammadpur, Bujurg, P.S.- Sarai, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The District Land Acquisition Officer, Vaishali at Hajipur.
5. The Collector-cum-District Magistrate, Vaishali.
6. The Superintendent of Police, Vaishali at Hajipur.
7. The Station House Officer, Sarai Police Station, Vaishali at Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Priyanka Singh
For the Respondent/s : Mr.Md. Nadim Seraj (GP- 05)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 09-02-2024 Heard counsel for the parties.

2. This writ application has been filed for the
following reliefs:-

A (i) to restrain the respondents from
acquiring the land appertaining to Khata No. 13,
Plot No. 351 admeasuring 2400 sq. ft. (120 ft.
from east to west and 20 ft. from north to south)
admeasuring 26 decimal situated on the eastern
side of NH-22 falling within Bhagwanpur Block
of Vaishali District and/or other land adjoining
the aforesaid land of the petitioner.

(ii) to restrain the respondents from
putting any obstruction/hindrance etc. in
construction of commercial market building



adjacent to the land on which Sarai Police Station is located.

(iii) to remove/shift Sarai Police Station presently located on the land referred to above to some other convenient place.

(iv) to pay rent prevalent rent of Sarai Police Station to the petitioner.

(v) to hold that location of Sarai Police Station at its present place is detrimental to the interest of the petitioner in as much as the petitioner has been deprived from constructing his market complex upto the Sarai Police Station.

B. to any other relief(s) which the petitioner is found entitled to.

3. It is submitted by the counsel for petitioner that petitioner is owner of the land appertaining to Khata No. 13, Plot No. 351 admeasuring 2400 sq. ft. (120 ft. from east to west and 20 ft. from north to south) admeasuring 26 decimal situated on the eastern side of NH-22 falling within Bhagwanpur Block of Vaishali District. The said land initially belonged to Late Quyam Khan and father of the petitioner. He got the land in exchange. On exchange, he got possession of the land and got mutated on his name with respect to same paid rent. In and around 1980, the Police Department and its officials approached Late Quyam Khan and who after negotiation let out the building for stationing Sarai Police Station on yearly rent approximately



Rs. 9,000/- (Rupees Ninety Thousand). In due course, some more rooms were constructed and Police Station is in existence for last more than 40 years. The land and Police Station is located on the western side of NH-22. The land itself has commercial potentialities. With the expansion of the family with new children, the petitioner in consultation with the family thought to utilize the land for commercial purpose. It may be relevant to state here that in and around the land on Mauza the police station is located the petitioner has got huge land in and around the same. The petitioner in order to augment income of the family and engagement of new members of the family started constructing a market complex on his own land adjoining the police station. The petitioner wanted to extend the market complex on the land, on which the police station is located, but he could not do so on the account of existence of police station. The police station is causing much inconvenience to the petitioner, members of family and even residents of locality who are residing near the police station. The police station has become a garbage centre. Large numbers of seized trucks, cars, motorcycles, scooters in connection with different criminal cases are kept on the land lying within the vacant portion of the police station. The same is polluting the



environment. The entire campus virtually has become a garbage centre which affect the health of people, who are residing on the adjoining area. On account of continuance of the police station, the petitioner is not in position to extend his market complex and utilize the land for commercial complex. For the last 4 to 5 years, the petitioner personally met all officials and even gave in writing with request to shift the police station to some other appropriate place or to locate the same after constructing the new building at a different place. The petitioner met and gave representation to the D.M., A.D.M., D.L.O, S.P. and other police officials including Chief Secretary with request to shift the police station at some other place. They only assured to look into the matter, but did not shift the police station. Despite several requests none was heeding to the petitioner. Thereafter, petitioner filed Eviction Suit under Section 11(C) of the Bihar Building Housing Control Civil Judge (Junior Division), Hajipur for eviction. However, petitioner is ready to withdraw the same, in case he gets relief from this Hon'ble Court. The State Government is proceeding for acquisition of the land of the petitioner, where the Sarai Police Station is located. There is one order issued with the signature of Collector, Vaishali as contained in Memo No. 67 dated 11.07.2022 (Annexure-2 to



this petition) showing the land on which the Police Station is located is to be acquired. There are other appropriate places for location of the Police Station and acquisition of the land for the same. There is appropriate land for constitution of police station. The petitioner in this connection submits that huge government land of *Gandak* is available where the police station can be located on new building may be constructed hardly at the distance of 300 meters located. The respondents have numbered buildings for locating the Police Station. Taking of private land where the government land is available, is nothing but infringement of property right.

4. In this connection counter affidavit has been filed on behalf of the State that the Superintendent of Police Vaishali sent requisition for acquisition of land for construction of Sarai Police Station vide letter no. 738 dated 30.12.2021. In his requisition land required for acquisition situates in Mouza Matiyara Tok, Thana No. 329, Khata No. 13, Khesra No. 360 and Area 1.0 acre. After receiving his requisition the land acquisition process has been started according to RFCTLARR Act, 2013. SIA (Social Impact Assessment) was conducted in which petitioner and other persons were present in public hearing and the land proposed to be acquired by the



Superintendent of Police, Vaishali was found best suitable for construction of Sarai Police Station and subsequently, preliminary notification under Section 11(1) was published on 05.08.2022 in daily newspaper. After expiry of 60 days a declaration as to acquisition of land for public purpose under Section 19(1) of RFCTLARR Act, was published on 10.10.2022 and notices under Section 21(2) has been issued to the concerned raiyats including the petitioner also. All process has been carried on in accordance with the provision as laid down under RFCTLARR Act, 2013 vide Annexure- 'A' series.

5. Learned counsel for State contended that it is settled law that public purpose will include a purpose in which the general interest of community as opposed to the interest of an individual is directly and indirectly involved. Individual interest must give way to the public interest as far as public purpose in respect of acquisition of land is concerned. It is further contended on behalf of the State that Sarai Police Station is running on the aforesaid land for the last 40 years which was taken on rent by one Quyam Khan on the monthly rent of Rs. 765/-. The respondent authorities are paying rent regularly which was duly accepted by the petitioner. Thereafter, petitioner made an application for enhancement of rent upon which the



concerned respondent made necessary correspondence to the Inspector General of Police, Muzaffarpur Range, for enhancement of rent of the building of Sarai Police Station which was accordingly approved by the Inspector General of Police, Muzaffarpur Range vide approval order no. 99 dated 31.08.2021 and accordingly, the concerned respondent issued payment order dated 01.09.2021 vide memo no. 556 vide Annexure- 'C' to the counter affidavit. Arrears of rent have already been paid to the petitioner till 31.03.2022. In this connection, it is worth-mentioning that writ petitioner has already availed an alternative remedy by filing eviction case for getting the respondents evicted from the aforesaid land on the ground of personal necessity and the respondents have put their appearance in eviction suit bearing Eviction Case No. 13 of 2021 and also filed written statement which is pending adjudication. It is further submitted that allocation of land for Police Line is an administrative decision and it has been decided after taking into consideration the strategic location of the local administration. Therefore, the reliefs sought for by the petitioner is neither maintainable nor sustainable either in view of the facts or in the eyes of law as being opposed to the public interest and public purpose.



6. Having heard counsel for the parties and having perused the materials available on record, I do not find any merit in the application. Location of Police Thana/Line is primarily for the State government to decide. The appropriate authority for deciding the place of construction of Police Thana/Line would be the concerned department and/or the local administration. This is purely an administrative matter. This Court cannot arrogate to itself the role of administrator to start taking administrative decisions where the Police Line should be constructed or not. Therefore, this writ application is neither maintainable nor sustainable in the eyes of law.

7. Accordingly, this writ application stands dismissed.

(Prabhat Kumar Singh, J)

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