

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10037 of 2024

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Santan Prasad Singh S/o Kameshwar Prasad Singh R/o village- Umga, P.O.-
Umga, P.S.-Madanpur, District- Aurangabad- 824208.

... .. Petitioner/s

Versus

1. National Highways Authority of India through Chairman, G 5 and 6, Sector-10, Dwarka, New Delhi - 110 075.
2. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
4. The Arbitrator-cum-Commissioner, Magadh Division, Gaya.
5. he District Magistrate - cum - Collector, Aurangabad, Bihar.
6. The Additional Collector, Aurangabad.
7. The Deputy Collector, Land Reforms, Aurangabad.
8. Mr. Avinash Kumar Singh, then the Deputy Collector, Land Reforms, Aurangabad, presently, posted at Arrah.
9. Deepak Kumar Singh S/o Shri Bharat Singh, R/o Village and P.O.- Madanpur, District- Aurangabad.
10. The District Certificate Officer, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vagisha Pragya Vacaknavi
For the NHAI	:	Dr. Maurya Vijay Chandra
		Mr. Gaurav Govinda
For the State	:	Mr. Shubhash Chandra Mishra (16)

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-07-2024 Heard learned counsel for the petitioner and the

learned counsel for the State.

2. The petitioner is aggrieved by the order dated
10.05.2024 issued by the respondent no.5, the District
Magistrate – cum – Collector, Aurangabad, Bihar whereby
direction has been given to the District Certificate Officer,



Aurangabad, Bihar to recover the alleged amount of compensation from the petitioner in Certificate Case No. 309 of 2021.

3. Shorn of unnecessary details, it is the case of the petitioner that a land appertaining to Khata No. 178, Plot No. 55, area 1 Katha was purchased by him through registered sale deed no. 4371 dated 20.05.1995 executed in his favour by Abdul Khalik Kadri. Having purchased the land, the petitioner constructed a house thereon.

4. The aforesaid land was acquired for widening NH No.2 to six lane. Accordingly, an award was prepared in respect to the land and the structure over it. The petitioner received the compensation amount and handed over the possession.

5. Adverting to the aforesaid facts, learned Advocate further contended that after removal of the construction/structure over the land in question, one complaint has been made by an unknown contractor informing the D.C.L.R. that the structure belongs to private respondent no.9 (Deepak Kumar Singh) and thus, the amount of compensation with respect to the structure over the land in question has been wrongly paid to the petitioner, which is required to be



recovered.

6. It is also the case of the petitioner that private respondent no.9 has obtained an order fraudulently; against which the petitioner also filed his show cause reply in L.A. Case No. 58(IX) of 2012-13. However, the structure over the land was declared to be private respondent no.9 vide order dated 15.02.2021, which order was put to challenge in C.W.J.C. No. 11945 of 2023 and the same is pending adjudication. The order dated 15.02.2021 also directed for recovery of compensation through certificate case.

7. Pursuant to the direction of the D.C.L.R. a certificate proceeding has been initiated to recover the amount of the award with respect to the structure made over the land in question. Against the initiation of the Certificate Proceeding, the petitioner approached before this Court in C.W.J.C. No. 15226 of 2021, which came to be withdrawn with certain liberty.

8. Thereafter the petitioner preferred an application before the certificate officer and also filed miscellaneous application for staying the warrant issued against him for recovery of the money. Having found no way out, the petitioner, then filed C.W.J.C. No. 16050 of 2022 for identical relief, as noted hereinabove.



9. The aforesaid writ petition was disposed of vide order dated 25.11.2022 (Annexure-12) with a direction to the District Magistrate-cum-Collector to examine as to whether the amount in question falls within the definition of public demand or not, apart from other observation.

10. In the light of the order of this Court in C.W.J.C. No. 16050 of 2022, the District Magistrate, Aurangabad, the impugned order dated 10.05.2024 (the copy which is marked as Annexure P/1) came to be passed, which is under challenge in the writ petition.

11. Learned Advocate for the petitioner assailing the impugned order vehemently contended that the matter was relegated before the District Magistrate as to whether the amount in question falls within the definition of public demand or not, but it has never been answered.

12. The petitioner has requested for personal hearing that has also been denied and as such, the order is also in violation of the principle of natural justice apart from in defiance of the earlier order of this Court.

13. Pursuant to the direction of the District Magistrate, a fresh certificate proceeding has also been initiated for recovery of the award of the structure over the land in



question.

14. On the other hand, learned counsel for the State submitted that the very basis of initiation of certificate proceeding are the orders of the D.C.L.R. as well as Arbitrator-cum-Commissioner which are put to question before this Court in two separate writ petitions and the same are pending adjudication. Moreover, the grievance put forth in the present application, the petitioner has a remedy before the Certificate Officer under Section 9 of the Bihar & Orissa Public Demand Recovery Act (henceforth, P.D.R. Act).

15. Having heard the learned Advocate for the petitioner and learned counsel for the State, *prima facie* it appears that a fresh certificate proceeding has been directed to be proceeded against the petitioner pursuant to the impugned order. However, despite the specific observation of this Court dated 25.11.2022 in C.W.J.C. No. 16050 of 2022, no order has been passed. Thus, in view of the aforesaid facts, this Court extends a further liberty to the petitioner to file a fresh objection before the Certificate Officer, who is in the seisin of the certificate proceeding, preferably within a period of two weeks.

16. In case, the petitioner files such objection



as noted hereinabove, the Certificate Officer shall consider the same and after giving proper opportunity of hearing dispose of the objection within a further period of four weeks by passing a reasoned and speaking order.

17. It is made clear that till the order passed by the Certificate Officer, the impugned order dated 10.05.2024 shall remain in abeyance.

18. It is also expected that the Certificate Officer shall not take any coercive action till the disposal of the objection.

19. With the aforesaid observations and directions, this writ petition stands disposed of.

(Harish Kumar, J)

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