

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13422 of 2023

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Lal Bihari Ray Son of Late Pannu Rai Resident of Mohalla- Changar Road
No. 8A, P.S.- Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
3. The Collector, Patna, District- Patna.
4. The Deputy Collector Land Reforms, Patna.
5. The Chief Executive Officer, Patna Municipal Corporation, Mauryalok, Patna- 800001.
6. The Executive Officer, Patna Municipal Corporation, Kankarbagh, Patna.
7. The Executive Engineer, Bihar State Water Board, Ganga Project-2, Beur, Patna- 800002.
8. The Circle Officer, Phulwarishariff, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Raja Ram Mishra, Advocate
For the Respondent/s	:	Mr. R.P.N. Tiwari, AC to SC 25
For the P.M.C.	:	Mr. Sanjay Prakash Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 23-07-2024 Heard the parties.

2. The present petition has been preferred for:

*issuing direction upon Respondents to
deliver physical possession of land to the petitioner
which has been forcibly acquired to construct a
PCC Road by the Patna Municipal Corporation
upon the private land of the petitioner and the
Water Supply Pipe has also been laid in the private
land of the petitioner by Bihar JalParshad and the
sewerage line is also proposed to be laid in the*



private land of the Petitioner having Cadestral survey plot no.145, Khata no.34, Thana No.24 situated at Mauza- Changar, Circle- Phulwari, P.S.- Kankarbagh, District- Patna measuring about 5.5 decimal which is ancestral property of the petitioner.

3. The petitioner claims that a road has been constructed on his private land after putting Water Supply Pipe line by the Bihar Jal Parishad.

4. The land in question is situated at Khata No. 34, Khata No. 24, Mauza – Changar, Circle- Phulwari, Police Station- Kankarbagh in the district of Patna.

5. The counter affidavit of the Patna Municipal Corporation is on record signed by the Executive Engineer, Kankarbagh Division and after the measurement of land on 18.03.2024, sketch map has been prepared.

6. It is the stand of the respondents that the land in question was being used by the Public/local residents for several years and for their convenience, the part of the PCC road was constructed. The petitioner objected to its only after the construction was over.

7. The contention of the learned counsel for the Patna Municipal Corporation is/was that it is used by the public as the



road which was not objected and only after the construction process was completed, the petitioner started agitating the matter. He however, concede that the part of the PCC road is within the land of the petitioner.

8. A counter affidavit/supplementary counter affidavit of the State-respondents filed by the Circle Officer, Phulwarisharif, Patna is also on record and they too acknowledge that on the part of the land of the petitioner, PCC road/Water Supply Pipe have been constructed by the respondent no. 5. Now as per the second affidavit of the Circle Officer, Phulwarisharif, Patna and the measurement made by his office, the construction of the part of the PCC road as also putting in Water supply Pipe have been executed by the Patna Municipal Corporation, they are duty bound to act in the matter.

9. Since the vital facts relating to the case as to when the road was being used by the public and/or when was actual construction took place (the year) and/or the first complaint of the petitioner received are not on record, it would be appropriate that the petitioner approaches the Patna Municipal Corporation (its Municipal Commissioner) in next four weeks.

10. The Municipal Commissioner, Patna Municipal Corporation is duty bound to hear the petitioner as also the



concerned parties, go through the records and take a decision on:

(i) whether the part of the land of the petitioner that has admittedly been taken over for the construction has to be released in his favour, the way it was before the construction took place or not?

(ii) in case, the Patna Municipal Corporation intends to keep the said part of the land of the petitioner, for the public use he has to be compensated after he provides all the relevant documents relating to the land to show his bonafide.

11. The decision must come within a period of four months from the date, the petition along with all the relevant documents is/are presented by the petitioner before the respondent, Patna Municipal Corporation.

12. The writ petition stands disposed of.

(Rajiv Roy, J)

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