

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12394 of 2023

=====

Avadhesh Ram Son of Mishri Ram, Resident of Village-Mishra Bandhaura,
P.O. and P.S. Vijayipur, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gopalganj.
2. The Collector-cum-District Magistrate, Gopalganj.
3. The Circle Officer, Vijayipur, District-Gopalganj.
4. The Land Acquisition Officer, Gopalganj, District-Gopalganj.
5. The Superintendent of Police, Gopalganj, District-Gopalganj.
6. The Bihar Bhoodan Yagna Committee through its Chairman, At-Gardanibagh, P.O and P.S. and District-Patna.
7. The Chairman, Bihar Bhoodan Yagna Committee, At-Gardanibagh, P.O and P.S. and District-Patna.
8. The Karyalya Mantri, District Bhoodan Office Gopalganj, Bihar Bhoodan Yagna Committee at Arar More, Gopalganj, P.O. and P.S. and District-Gopalganj.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey No.5, Advocate
For the Respondent/s : Mr. Raj Kishore Roy, G.P.-18

=====

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 01-04-2024 Heard the parties.

2. The present petition has been preferred for the
following reliefs:-

*(a) for direction to the Respondent Authorities -
to bring all the relevant decisions and orders; on the
basis of which the land of the Petitioner is being taken for
the construction of a Police Station Building, without
initiating any Land Acquisition proceeding.*

*(b) and further for the quashing of the
order/orders, by virtue of which the land of the Petitioner*



is being utilized for the construction of the Police Station Building, without initiating any Land Acquisition proceeding.

(c) and further for a direction to the Respondent Authorities - to not to utilized the land of the Petitioner; as detailed in Para-5 of this writ Application; for the construction of the Police Station Building.

(d) or alternatively to grant appropriate compensation and all other ancillary benefits to the Petitioner, before the taking the land of the Petitioner; on amongst other the following grounds:-

(i) for that the land, as detailed in Para 5 of the Writ Application (Reference Annexure P1 of the Writ Application); is an Agricultural Land belonging to the Petitioner's family.

(ii) for that the Plot concerned is having a total area of 4 Acre and 92 Decimals; out of which 20 Decimals land has been granted to the Feku Chamar, the grandfather of the Petitioner; by the Bihar Bhoodan Yagna Committee; which is apparent from Annexure - P1 of the writ application.

(iii) for that subsequently the Bihar Bhoodan Yagna Committee has forwarded the Form X; to the Deputy Collector Land Reforms, Hathua (Annexure-P2).

(iv) for that, in the year 2019



Persons from the Circle Office, Vijayipur came to the land of the Petitioner and started measuring it for the purposes of the construction of the Police Station Building.

(v) for that the Petitioner and his father has signed the Public Petitions dated 08.05.2019, 06.07.2019, 09.01.2020 and 29.10.2021 but no action has been taken by the Respondent Authorities.

(vi) for that, in a similarly situated facts, by the order dated 15.01.2020; the Sub- Divisional Public Grievance Redressal Authority, Hathua, Gopalganj has recommended that the land must not be utilized by the Circle Officer, Vijayipur; but even after that the lands of the Petitioner is being taken by the Respondent Authorities for the constructions of the Building.

(vii) for that the land was selected in 2019. On 29.10.2021 the Soil Testing of the land was done. The Anchal Ameen has demarcated the land for the project on 14.10.2022.

(viii) for that initially a land situated on Vijayipur Bhorey Main Road (Vill -Kaithwaliya, Khata -128, Plot No - 125) was selected for the construction; but as the land belonged to an influential family of the locality, the land of this poor Petitioner is being taken by the Respondent



Authorities.

(ix) for that it is worth pointing out here that one new Police Station Building is already standing on the Vijayipur Bhorey Main Road (Khata -128, Plot No-79) but the same is not being utilized by the Police Authorities and they are all inclined to construct a new building, taking the land of these poor Petitioner; without any land acquisition proceeding.

(x) for that due to the illegal and arbitrary decision of the Respondent Authorities the Petitioner has suffered from an irreparable injury in the form of losing their substantive Agricultural land.

(xi) for that due to the illegal and arbitrary decision of the Respondent Authorities the Fundamental Rights of the Petitioner as enshrined in the Constitution of India has been violated.

3. Learned Counsel for the petitioner straightway has taken this Court to an order of the co-ordinate bench in the case of **Sonu Ram vs. The State of Bihar** in **C.W.J.C. No. 18563 of 2022** and analogous cases and paragraph 10 onwards read as follows:-

“10. Upon going through the pleadings and hearing the arguments of the parties as well as



the position of law, it is made clear to this Court that the Bihar Bhoodan Yagna Act, 1954 (Act No. 22 of 1954) has been enacted with special purpose i.e. to facilitate the donation of lands in connection with the Bhoodan Yagna initiated by Sri Acharya Vinoba Bhave and to provide for the settlement of such lands with landless persons or with a village community, gram panchayat or with a co-operative society organized by the Bhoodan Yagna Committee whereas it is expected to facilitate the donation of lands in connection with Bhoodan Yagna initiated by Sri Acharya Vinoba Bhave to provide for the settlement of such lands with landless persons and it was the desire of Sri Acharya Vinoba Bhave that land donated to him in connection with Bhoodan Yagna prior to commencement of this Act shall be transferred to and vests in Bhoodan Yagna Committee. According to the scheme, every such donation made to Sri Acharya Vinoba Bhave was subject to approval by the Revenue Officers of the Govt. of Bihar. Section 11(4) of the Act of 1956 is a methodology provided under the Act by which on receipt of the Bhoodan Yagna dan Patra, the revenue Officers shall have to do the needful and pass an order about the approval of the said dan Patra and, subsequently, after compliance of confirmation U/s 11 (4) of the Act of 1956, a certificate of dan Patra has to be issued to every persons to which the donation under this law has to be made.



11. Here in the present case, as per the pleadings of the Bihar Bhoodan Yagna Committee, the present land along with other lands were presented for approval before the then Deputy Collector Land Reforms, Gopalganj who under case No. 11 of 1970-71 has granted approval for part of the land and rejected the approval for part of the land. It transpires to this Court that in the proposal, Plot No. 82 has been mentioned but in the final part of the order, a typing mistake occurred and instead of Plot No. 82, Plot No. 42 has been typed. This Court reached on this conclusion due to the reason that all Plots including Plot No. 82 have been mentioned except Plot No. 42 in the proposal and in the decision, Plot No. 42 has been mentioned instead of Plot No. 82.

12. From the annexures of all the writ petitions, it transpires to this court that separate dan patra has been allotted to all the petitioners. In this view of the matter, this Court is of the opinion that petitioners are valid acceptors of the said land completely in accordance with the law.

13. Learned counsel for the State on the other hand relied on a letter which has been issued by the Joint Director, Agriculture bearing Memo No. 970 (7) dated 23.08.2016 and on the basis of which the State has taken the stand that after vesting of zamindari, the landlord were not entitled to donate Gair Mazarua Malik land as the



zamindari was vested in the State itself.

14. In this regard, this Court is of the opinion that it is a letter that has been prepared without consideration of the Bihar Bhoodan Yagna Act, 1954. When a letter and a statute appears to be in contradiction then in that case admittedly the statute shall prevail and not the letter. In this view of the matter, this Court is of the opinion that there is no substance in the argument of the State by virtue of the said letter No. 970 (7) dated 23.08.2016.

15. As such writ petitions are allowed.

16. It is made clear that under the present law holding property is not the fundamental right. If any land which is of utility to the State, the State under the existing law may acquire the same and for that, the State has to follow the rule of the law of the land, time being enforced. If the State is of the opinion that this land is usable for the State, then in that case, the State is free to take the land by virtue of acquisition of the same.

17. It is made clear that no coercive action shall be taken against the petitioners including removing them from the land in question over which they are in lawful possession, except following the due process of law.”

4. Though State tried to differentiate out the case vis-



a-vis the case of **Sonu Ram** (supra), a perusal of the same would show that it is one or the same.

5. In that view of the matter, this Court also takes the same route as taken by the co-ordinate bench.

6. However, since no document is on record that has to be quashed, the writ petition stands disposed of granting liberty to the petitioner to approach appropriate authority alongwith the order who shall act strictly in line with the order passed in Sonu Ram (supra) case.

(Rajiv Roy, J)

Neha/-

U			
---	--	--	--

