

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13826 of 2023

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Shambhu Ray S/o Nethlal Ray, Resident of Village- Rampur, Shyamchand,
P.S.- Raghopur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Patna.
3. The Dy. Collector, Land Reforms, Patna City,
4. The Circle Officer, Patna Sadar,
5. The Union of India, through Railway Authority, Banka Ghat, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhay Kumar, Advocate Mr. Arvind Kumar, Advocate
For the State	:	Mr. Saurabh Kumar A.C. to S.C.-19
For the U.O.I.	:	Ms. Kanak, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 22-04-2024 Heard the parties.

2. On the last occasion, on 01.04.2024 having gone through paragraphs 8 and 9 of the counter affidavit filed on behalf of the State as also paragraphs 5 and 6 of the Union of India through railways, this Court was convinced that no case is made out as the *pucca* construction has been found to be done in the north direction of the railway line which is the land of the railway. Still, learned counsel for the petitioner wanted time to file reply. The Court had observed that if there is no strong rebuttal in the findings that has come in the counter affidavit, heavy cost shall be imposed.



3. Today, on call, no reply to the counter affidavit has been filed.

4. Paragraphs 8 and 9 of the reply of respondent Nos. 2 to 4 read as follows:-

8. That the D.C.L.R., Patna City after hearing the both parties and considering all the facts on record has observed that the measurement has been done in the presence of all concerned as per the line map (391 miles 528/2 phase) of Banka Ghat Station under Hawrah-Patna line and it has been inferred that the packa construction being done in the north direction of the Railway line is the land of the Railways.

9. That accordingly, the D.C.L.R., Patna City has passed order dated 24-08- 2022, whereby the Demarcation Appeal Case No.- 05/2022-23 has been rejected and no interference has been done in the order passed in Land



*Demarcation Case No.-135/2021-22
by the Circle Officer, Patna Sadar.*

5. Further, paragraphs 5 and 6 of the Railway read as follows:-

5. That it is submitted that in the presence of petitioner and Railway officer the land in question i.e. Plot No. 970, Khat No. 788. Thana No. 44 Area-3.125 Decimal, Mauza Sabapur was measured on the basis of available document of Railway. After measurement, it was found that construction work has been done on the land of railway. Accordingly a report in measurement case No. 135/21 reference No. 2085 dated 11.03.2022 was submitted before Circle Officer, Patna Sadar with intimating that the land in question which is claiming by the petitioner belongs to Railway.

6. That in light of above said report



and fact related to land of Railway, the petition filed by the petitioner in demarcation case no. 135/2021-22 has been dismissed which is fully justified and proper. Therefore prayer of the petitioner for setting aside the order dated 25.04.2022 passed in demarcation case No. 135/2022 is not proper and justified hence it is required to be rejected.

6. In the aforesaid background, no relief can be granted to the petitioner.

7. The writ petition stands disposed of.

(Rajiv Roy, J)

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