

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1650 of 2019

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Bachha Devi, W/o Late Bhuvneshwar Jha Resident of Village- Pokhrouni,
P.S Rahika District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Water Resources Department,
Government of Bihar, Patna
2. The Under Secretary-Cum Director, Land Acquisition Department
Government of Bihar, Patna
3. The Chief Engineer, Water Resources Department west Koshi nahar
Division Darbhanga
4. The Supertending Engineer, West Koshi Nahar Anchal Darbhanga
5. The Special Land Acquisition Officer Koshi Project Dharbhanga
6. The Executive Engineer, west Koshi Nahar Division, Dharbhanga
7. The collector Madhubani District- Madhubani
8. The Addition Collector, Madhubani, Distirct- Madhubani
9. The Land reform District Collector, Madhubani, District Madhubani
10. The Circle officer, Radhika Anchal, District Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Subhash Kumar Jha, Advocate
For the State	:	Mr. Akhileshwar Singh (AC to GA-2)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 30-01-2025 Heard Learned Counsel for the petitioner and Learned
Counsel for the State.

2. The present writ petition has been filed for issuance
of writ in the nature of mandamus for commanding the
concerned respondent authorities for institution of land
acquisition proceeding in accordance with the provision of the
Land Acquisition Act with regard to the land of the petitioner
which has already been acquired without initiating any land



acquisition proceeding for construction of Kakarghati Dam (OR4) within Mauza- Pokhrouni, Thana No.25, Anchal Rahika, District- Madhubani treating the same is a Government land on the basis of the wrong entry in the *Khatiyan* although same is a *raiya* land of the petitioner and further for direction to the respondents after following due process under provision of the Land Acquisition Act, proper compensation may be provided to the petitioner at the present prevailing rate of the area in question.

3. Learned Counsel for the petitioner submits that description of the land of the petitioner bearing Mauza- Pokhrouni, Thana No. 25, Anchal Rahika, District- Madhubani, Khat No. 387, Kheshra No. 1888(New)/892 (old) Rakwa-5 Decimal, Kheshra No. 1898 (New)/ 884 (old) Rakwa-7 Decimal, Kheshra No. 1890 (New)/884 (old) Rakwa-3 Decimal, Kheshra No. 1854 (New)/878 (old) Rakwa-7 Decimal, Kheshra No. 1897 (New)/884 (old) Rakwa-8 Decimal, Kheshra No.1891 (New)/884 (old) Rakwa-2 Decimal. Counsel submits that these lands were the *raiya* land of the petitioner, but it has been wrongly been recorded as Anawad Bihar Sarkar and when petitioner's husband received information in this regard then, he has filed an application under section 106 of the Bihar Tenancy



Act, 1885 (Act no.8 of 1885) (hereinafter referred to as Act of 1885) registered as Case No.50 of 1991 before the Settlement Officer, Madhubani and finally, after hearing the parties considering all the relevant documents, order has been passed on 19.08.2009 by which petitioner's husband name was recorded in the land. Counsel further submits that when petitioner's husband received information about the acquisition of the land without notice, then he filed representation before the Special Land Acquisition Officer, Koshi Project, Madhubani.

4. Learned Counsel for the petitioner further submits that petitioner's husband died in the year 2015 i.e. on 02.03.2015. Counsel submits that Additional Collector, Madhubani *vide* letter no.161 dated 22.01.2016 (annexed as Annexure-5) wrote a letter to the Special Land Acquisition Officer, Koshi Project Sakri, Madhubani to take action under the provisions of Land Acquisition Act, 1894 (Act no.1 of 1894) with regard to the claim of the petitioner, but nothing happened. Counsel submits that *vide* Annexure-6, it transpires that Special Land Acquisition Officer *vide* his letter no.317 dated 25.02.2016 (annexed as Annexure-6) wrote a letter to D.C.L.R., Madhubani to declare the land *raiyati* so that payment could be made to the



petitioner. Subsequently, D.C.L.R., Madhubani *vide* Memo no.502 dated 17.03.2016 communicated the said letter to the Circle Officer Rahika to submit a report after verification so that proper action be taken in this regard. Counsel further submits that Circle Officer Rahika *vide* letter no.1549 dated 27.05.2016 (annexed as Annexure-7) in response thereof, sent a letter to D.C.L.R., Madhubani that the said land shall be treated as *raiyati* land as correction has rightly been made in the Records of Right by virtue of Case No.50 of 1991 under section 106 of the Act of 1885. Counsel submits that even then, the Special Land Acquisition Officer has not taken any action. But *vide* Annexure-E of the counter affidavit, the Special Land Acquisition Officer wrote a letter to the Chief Engineer, Water Resource Department, Darbhanga that process for acquisition be completed and payment be made in accordance with law. But instead of, initiation of the process, Chief Engineer has instructed the Executive Engineer, Darbhanga to sent a letter to the Collector, Madhubani opined that the said land may not be treated into process of acquisition.

5. Learned Counsel for the petitioner further submits that under law, Special Land Acquisition Officer has written a letter to the Chief Engineer to do the needful, but he instead of



act lawfully, himself opined and sent his opinion to the Collector through Executive Engineer that the said land may not be treated into process of land acquisition (*vide* Annexure-F).

6. Learned Counsel for the State in this background seeks a short adjournment with a view to affirm that whether payment has been made or not.

7. In the light of the submissions made by the parties, it transpires to this Court that the said opinion which has been given by the Executive Engineer to the Collector, Madhubani through Annexure-F is unnecessary and he has no authority to say so particularly when the Circle Officer *vide* Annexure-D of the counter affidavit, letter no.308 dated 19.03.2018 has already stated the correct position of law that this land be treated as *raiya* land.

8. It transpires to this Court that the said acquisition has been made in the light of Bihar *Raiya Bhoomi* Lease Policy, 2014 and hence, in this background, it is directed to the Collector, Madhubani (Respondent no.7) to do all the needful for the preparation of lease in the light of Bihar *Raiya Bhoomi* Lease Policy, 2014 and shall also do the needful so that the payment in accordance with law be made to the petitioner within 3 months completing all the paraphernalia.



9. It is made clear that from the documents, it transpires to this Court that land has been taken under Bihar *Raiyati Bhoomi* Lease Policy, 2014 and therefore, no other criteria has to be fulfilled.

10. Accordingly, with the aforesaid direction, this writ petition is hereby allowed.

(Dr. Anshuman, J)

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