
(2015) 07 PAT CK 0157
In the Patna High Court
Case No : CWJC No. 6618 of 2011

Gulab Choudhary

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 06-07-2015

Acts Referred:

Citation : (2015) 4 PLJR 645

Hon'ble Judges : Rakesh Kumar, J.

Bench : Single Bench

Advocate : Rabindra Kumar Sinha and Umesh Kumar Verma, for the Appellant;
Kinkar Kumar, for the Respondent

Final Decision : Allowed

Judgement

Rakesh Kumar, J.—Heard Sri Rabindra Kumar Sinha, learned counsel, who was assisted by Sri Umesh Kumar Verma, learned counsel for the petitioner and Sri Kinkar Kumar, learned SC No. 27. It is a peculiar case in which the petitioner has alleged that without adopting any process of law in accordance with the provisions contained in the Land Acquisition Act, the land of the petitioner was utilized for strengthening of the Jamindari Bandh.

2. The petitioner has prayed for commanding the respondents to pay compensation for the land, soil lifted from the land of the petitioner as well as compensation amount for crops and trees.

3. In this case a counter affidavit has been filed on behalf of the respondent Nos. 5, 7 and 8 duly executed by one Sri Ajit Kumar Singh, the Executive Engineer, Water Ways Division, Biharsharif, Nalanda. In the counter affidavit, the respondents have accepted regarding the usage of the land of the petitioner and removal of the soil from the petitioner's land, but still in the counter affidavit certain words have been used against the petitioner which was required to be avoided. The court must deprecate the person who has sworn affidavit in the manner whereby even after accepting the fact that the soil from the petitioner's

land was used, statement was made as if the petitioner had made false statement in paragraph No. 18 of the counter affidavit. It is appropriate to quote paragraph No. 18 of the counter affidavit, which is as follows:--

"18. That with regard to the statements made in paragraph 13 of the writ petition under reply it is submitted that averments made therein are very fraudulent and dubious as the petitioner himself has prevented the answering deponent from excavating soil from stretch of the land and has requested to take soil from only few feet adjoining the bandh and despite that it is false to say that a ditch of 11 to 13 feet has been made as only about 8 feet deep soil has been taken."

4. On perusal of the aforesaid statement it is evident that respondents have accepted that about 8 feet deep soil has been used from the petitioner's land. Regarding compensation for crops stand has been taken that petitioner was asked to get the compensation amount regarding the loss of crop to the tune of Rs. 330/-, but the petitioner has not collected the same.

5. The petitioner by way of filing reply has brought on record Annexure-12 i.e. report of the Amin submitted before the Circle Officer, Asthawan (Nalanda) wherein detail has been given regarding the use of the land of the petitioner.

6. The court is of the opinion that without going in detail of the matter, the writ petition can be disposed of with a direction to the respondent No. 6/District Magistrate, Nalanda at Biharsharif to assess the compensation amount of the petitioner and thereafter remaining respondents, particularly respondent No. 2/Secretary, Water Resources Department, Government of Bihar, Patna are directed to take steps for payment of the compensation amount to the petitioner immediately after receipt of the recommendation of the District Magistrate. The District Magistrate may get report from the Circle Officer regarding the loss suffered by the petitioner and thereafter he will make recommendation to the Water Resources Department for payment of the compensation amount. All the processes must be completed within a period of two months from the date of receipt/production of a copy of this order. Thereafter, all the respondents are directed to take steps to pay compensation amount to the petitioner within a period of three months from the date of receipt/production of a copy of this order. Compensation amount may be paid in accordance with law. The writ petition stands allowed.