

(2013) 04 PAT CK 0007
In the Patna High Court
Case No : CWJC No. 17026 of 2010

Sri Prabhu Nath Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-04-2013

Acts Referred:

Citation : (2013) 4 PLJR 122

Hon'ble Judges : Ravi Ranjan, J

Bench : Single Bench

Advocate : Ravi Kumar, Rajiv Ranjan Singh, Kumar Vikram, Alok and Mrs. Priya Choubey, for the Appellant; M.D. Dwivedi for the State, for the Respondent

Judgement

Dr. Ravi Ranjan, J.—I have heard learned counsel for the petitioner and the State. Through this application, the petitioner seeks direction for removal of the construction made upon his private land of Plot No. 1226 by the State authorities who have constructed a wall which has been raised for the purpose of culvert by the Rural Work Development Department, Division No. 2, Hajipur, Vaishali.

2. Learned counsel for the petitioner has brought attention of this Court towards Annexure-4 which is verification report by the Revenue Officer dated 25.8.2010 as well as Annexure-5 which is a report of measurement by the Anchal Amin, Rajapakar dated 8.9.2010. It is submitted that from both the documents it appears that the authorities have illegally utilized the land of the petitioner while making such construction.

3. A counter affidavit has been filed on behalf of the respondent No. 6. In paragraph-3(iv), it has been admitted referring the report of the Revenue Karamchari and Anchal Amin that 19 "Kari" land of the Revisional Survey Plot No. 1226 has been utilized for construction of culvert.

4. The concerned Revenue Karamchari has made a recommendation that the construction should be made only after getting the land measured in accordance with the entries in revisional survey record of rights.

5. However, the counter affidavit is silent as to what future action is to be proposed by the authority concerned.

6. The private land belonging to the private person cannot be utilized by the State authorities for raising such construction without his consent or without acquisition of the land and payment of compensation as per the provisions contained in Land Acquisition Act. Thus, it would be open for the authorities either to remove the construction from the aforesaid land or take steps in accordance with law for acquisition of land if the same is required in public interest.

7. Since it has not been disclosed in the counter affidavit that the authorities are inclined to acquire the piece of land utilized for construction of the concerned wall in accordance with law, let the structure constructed on the land of the petitioner be removed within four weeks from the date of production of a certified copy of this order by the petitioner before the respondent No. 5.

8. In view of the admitted fact that the reports of Anchal Amin and Revenue Karamchari were available before the authorities and even then after filing of representation no action or decision was taken by the respondent No. 5. Even during the pendency of the writ application, when counter affidavit has been filed admitting the aforesaid wrong done by the authority, it has not been stated that what positive action is going to be taken for redressal of the grievance of the petitioner.

9. In my opinion, such inaction on part of the respondent No. 5 is unfair and unreasonable. Thus, a cost of Rs. 5,000/- is also imposed upon respondent No. 5 which should be paid to the petitioner within one month from the date of production of a certified copy of this order. Accordingly, this application stands allowed with cost.