

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3439 of 2014

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Devendra Prasad Singh alias Devendra Prasad Son of Late Triveni Singh, resident of Mohalla-Chowk Sikarpur, Sri Ram Colony (North of Railway Godown), Chah Kalyan, Dhawalpura, Vivekanand Colony Road, House No. 1, Patna City, P.S.- Chowk, District- Patna

.... Petitioner/s

Versus

1. The Union of India through General Manager, East Central Railway, Hajipur, Vaishali (Bihar)
2. The Engineer in Chief, East Central Railway, Hajipur (Vaishali)
3. The Chief Engineer (Line), East Central Railway, Hajipur (Vaishali)
4. The Divisional Railway Manager, Danapur Division, E.C. Railway, Danapur, Patna
5. The Senior Divisional Engineer (1), Danapur Division, E.C. Railway, Danapur, Patna
6. The Senior Divisional Security Commissioner, Danapur Division, Patna
7. The Assistant Divisional Engineer (Line), E.C. Railway, Patna Junction, Patna
8. The Station Manager, Patna Sahib Station, Patna City, Patna
9. The State of Bihar through the District Magistrate, Patna
10. The Superintendent of Police, Rail District, Government Rail Police, Patna
11. The Inspector, Railway Protection Force, Fathuha, Patna
12. The Officer-in-Charge, GRP, Patna City, Patna
13. The Senior Superintendent of Police, Patna
14. The Superintendent of Police (City), Patna
15. The Sub-Divisional Magistrate, Patna City
16. The Circle Officer, Patna Sadar, Patna
17. The SHO, Chowk Police Station, Patna City, Patna

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.3941 of 2014

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Smt. Sangita Devi wife of Dharmbir Prasad, resident of Mohalla-Belwarganj, Patna City, P.S.- Alamganj, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Sub-Divisional Officer, Patna City
3. Union of India, through General Manager, East Central Railway, Hajipur
4. Divisional Rail Manager, East Central Railway Danapur Division, Patna
5. Assistant Divisional Engineer (Line) East Central Railway, Patna Junction- 1

6.The General Manager, Ercon International Limited, 1st Floor, Sone
Bhawan, Patna- 1

.... Respondent/s

Appearance:

(In CWJC No.3439 of 2014)

For the Petitioner/s : Mr. Santosh Kumar Singh

For the Respondent/s : Smt. Binita Singh, GP-31

(In CWJC No.3941 of 2014)

For the Petitioner/s : Mr. Ajay Kumar Mishra

For the Respondent/s : Mr. P.N. Shahi, AAG-10

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 08-01-2015 Heard Mr. Santosh Kumar Singh for the petitioner in
CWJC No. 3439 of 2014 and Mr. Binay Kant Mani Tripathi,
learned counsel appearing on behalf of the petitioner in CWJC No.
3941 of 2014.

Since identical orders are put to question in the two writ
petitions hence they have been taken up together with a view to
their final disposal.

The petitioners in each of the two writ petitions are
aggrieved by a notice issued by the respondent Assistant
Divisional Engineer (Line) East Central Railway, Patna Junction,
Patna directing the petitioners to remove the encroachment
allegedly made on the railway property within three days of the
issuance of the notice which is dated 8.2.2014 failing which the
same would be removed by the railway administration. Whereas
the notice is impugned at Annexure-7 in CWJC No. 3439 of 2014

an identical notice is impugned at Annexure-5 to the second writ petition.

The petitioners herein have questioned the notice on the following grounds:

- (a) The allegation that the petitioners have encroached on railway property is incorrect;
- (b) The petitioners are bona fide purchasers of the property on which they have constructed their respective house / shop;
- (c) The notices have been issued without drawing a duly constituted proceedings;
- (d) The orders have been passed without notice to the petitioners;
- (e) The order is without any foundation.

Mr. Anil Singh has appeared for the respondents in both the writ applications and files counter affidavit. Mr. Singh very fairly accepts the position that the orders have been passed without drawing a properly constituted proceedings and without any show cause notice to the petitioners.

Considering the admissions by the respondents that the orders impugned in the two writ petitions have been passed without drawing a properly constituted proceedings and without notice to the petitioners, the notices dated 8.2.2014 impugned at

Annexure-7 and Annexure-5 to the respective writ petitions, cannot be upheld and are accordingly set aside.

The writ petitions are allowed. The order passed in the present proceedings will not preclude the respondents to proceed in the matter in accordance with law.

(Jyoti Saran, J)

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