

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7137 of 2011

Jai Prakash Yadav, Son of Mahi Narain Yadav, Resident of Village Sirahi, P.S. Sonversa Raj, District Saharsa

.... Petitioner

Versus

1. The State of Bihar
 2. The District Magistrate, Saharsa.
 3. The Deputy Development Commissioner, Saharsa
 4. The Superintendent of Police, Saharsa
 5. The Sub-Divisional Officer, Saharsa
 6. The Circle Officer, Saharsa
 7. The Officer-in-Charge, Sonversa Raj Police Station, District Saharsa
 8. Abu Qumar, Son of Md. Yunush Ali Sidique
 9. Md. Mahboob, Son of Late Ajim,
 10. Md. Shakirmuddin, Son of Late Jamaluddin
 11. Shabuddin, Son of Nasriuddin
 12. Md. Sahnabaz, Son of Md. Sahabuddin
 13. Md. Ayub, Son of Md. Hasim
 14. Md. Salauddin, Son of Late Jahir
 15. Md. Bechan, Son of Md. Bakar Ali
 16. Md. Anwar, Son of Md. Jasimuddin
- All are residents of village Sirahi, P.S. Sonversa Raj, District Saharsa

.... Respondents

Appearance :

For the Petitioner : Mr. Ram Sumiran Rai, Advocate

For the Respondents: Mr. Brajesh Kumar, AC to AAG 11

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-02-2015

This writ petition is filed in the form of public interest litigation stating that some of the private respondents are making efforts to encroach the road in village Sirahi in the district of Saharsa and to construct a compound wall in the name of protecting the graveyard (**Kabristan**).

2. The petitioner contended that though a road was

existing from time immemorial, private respondents are making efforts to get hold of some of the road and make it part of the graveyard.

3. The official respondents have filed counter affidavit stating that there is some dispute between the sections of the people as regards exact boundary and when the efforts were made to fix a boundary wall, there was a commotion in the village.

4. The private respondents have also filed counter affidavit stating that the boundary wall is being constructed only by encroaching the area within the plot that is earmarked for graveyard and that the writ petition was filed with an oblique motive to obstruct the construction of the boundary wall.

5. We have perused the records of the writ petition; counter affidavits filed by the respective parties and heard learned counsel for the parties.

6. The effort of the petitioner is to ensure that public road is not encroached in the name of protecting the graveyard. The private respondents, on the other hand, have stated that they are taking steps to protect the graveyard from being encroached and the boundary wall is being constructed. Therefore, the writ petition is filed.

7. Whenever a boundary wall dispute arises, it is only

the revenue authority who can take necessary steps in this behalf. The boundary of land has to be fixed up with reference to the revenue records. If anyone is aggrieved dissatisfied with the boundary wall fixed by the authorities of the Government, they ought to have approached the competent civil court.

8. We, therefore, dispose of the writ petition directing that the boundary wall for graveyard in the village shall be fixed by the authorities of the revenue in accordance with the relevant provisions within two months from today after giving due notice to the concerned parties. If any of the parties intends to dispute the boundary wall so fixed, he shall approach the civil court for necessary declaration in this behalf. There shall be no order as to costs.

9. The interlocutory application, if any, shall stand disposed of.

(L. Narasimha Reddy, CJ)

(Vikash Jain, J)

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