

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1070 of 2015

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1. Md. Aquilur Rahman S/o Late Md. Khalilur Rahman, Resident of Village - Sujawalpur, P.O. - Dholi, P.S. - Sakra, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate cum Collector, Muzaffarpur.
3. The Sub-Divisional Magistrate, East Muzaffarpur.
4. The D.C.L.R. East Muzaffarpur.
5. The D.I.G., Tirhut Region, Muzaffarpur.
6. The Senior Superintendent of Police, Muzaffarpur.
7. The Station House Officer, P.S. - Sakra, District - Muzaffarpur.
8. The Circle Officer, Sakra, District - Muzaffarpur.
9. The General Manager, L.P.G. Gas (Indian Oil Crop.) Bihar Range, Patna.
10. Raj Kishore Gupta S/o Bishwanath Prasad Gupta, R/o Village - Majhauria, P.S. - Sakra, District - Muzaffarpur.
11. Ajay Nishad, S/o Jai Narain Nishad, R/o Mohalla - Attardah, Post - Ramna, P.S. - Sadar, District - Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Fakhruddin Ali Ahmad, Adv.
For the Respondent/s : Mr. Kumar Priyaranjan, SC-23
For the respondent No. 9 : Mr. Anil Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 14-07-2015 The complaint of the petitioner is that the private respondent has intruded over his land and has encroached by making constructions thereon. Even while complaining as such, it is admitted by the petitioner that a civil suit arising from Title Suit No.236 of 2011 is pending consideration before the Sub Judge, IV, District Court, Muzaffarpur.

It is the complaint of the petitioner that despite a direction by the District Magistrate, Muzaffarpur requiring a measurement

by the Circle Officer he is not ensuring its compliance.

I have heard Mr. Fakhruddin Ali Ahmad learned counsel for the petitioner and learned counsel for the State and I have perused the records.

In so far as disobedience of the Circle Officer is concerned, the petitioner would be at liberty to draw the attention of the District Magistrate for it is for the District Magistrate to ensure compliance of his direction by the Circle Officer.

In so far as the prayer for removal of alleged encroachment by the private respondent is concerned, considering that the nature of dispute is private and the matter is pending consideration in Title Suit No. 236 of 2011, the remedy for the petitioner would lie before the trial court, whether for restraining the private respondent from making any further constructions or for removal thereof or to get the area measured and he would be at liberty to recourse to the same and raise all issues as raised herein. However, in the circumstances discussed, a writ would not lie and thus the writ petition is accordingly disposed of.

(Jyoti Saran, J)

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