

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 4788 of 2013

Arising out of

Letters Patent Appeal No. 1233 of 2012

In

Civil Writ Jurisdiction Case No. 18347 of 2008

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Akhil Bharatiya Paryavaran Ewam Grameen Vikas Sansthan, through its Honorary Secretary Geeta Devi.

.... Petitioner/s

Versus

1. The State Of Bihar, through Collector, Patna.
2. The Collector, Patna.
3. The Circle Officer, Sadar, Patna.
4. The Senior Superintendent of Police, Patna.
5. Officer Incharge, Shastrinagar Police Station, Patna.

.... Respondent/s

With

Miscellaneous Jurisdiction Case No.2904 of 2013

Arising out of

Letters Patent Appeal No. 1233 of 2012

In

Civil Writ Jurisdiction Case No. 18347 of 2008

=====

Akhil Bhartiya Paryavaran Avam Gram Vikash Sansthan through its Secretary, Geeta Devi, W/o Rajendra Ram, Resident of Mohalla Gardanibagh Hospital Campus, P.S.-Gardanibagh, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar thorough Ashok Kumar Sinha, Chief Secretary, Government of Bihar.
2. A. N. Sarwan, Collector, Patna.
3. M.P. Gupta, Circle Officer, Sadar, Patna.
4. Manu Maharaj, Senior Superintendent of Police, Patna.
5. Vidya Sagar, Officer-in-Charge, Shastrinagar Police Station, Patna.
6. Sudhanshu Kumar Chaubey, Deputy Collector Land Reforms, Patna.

.... Respondent/s

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Appearance :

(In MJC No. 4788 of 2013)

For the Petitioner/s : Mr. M. L. Verma, Sr. Adv.
For the State : Mr.Lalik Kishore, P.A.A.G.
Mr. Prashant Pratap, G.P.-6
Mr. Gyan Shankar, A.C. to G.P.-6

(In MJC No. 2904 of 2013)

For the Petitioner/s : Mr. Syed Alamdar Hussain, Adv.

For the State : Mr. Shashi Bushan Kumar, Adv.
Mr. Lal Babu, Adv.
Mr. Lalit Kishore, P.A.A.G.
Mr. Prashant Pratap, G.P.-6
Mr. Gyan Shankar, A.C. to G.P.-6

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE V.N. SINHA)
Date: 03-04-2015

By filing the present modification application bearing M.J.C. No. 4788 of 2013, appellant/petitioner is seeking modification of order dated 15.04.2013 passed in L.P.A. No. 1233 of 2012 as while allowing the Appeal and disposing of the Interlocutory Application No. 5263 of 2012 under order dated 15.04.2013 the Court observed at internal page 4, 5 of the order as follows:-

“It has now been proved that the above referred Syed Asgar Ali had no title over the land in question. He could not have passed title to his purchasers, the vendors of the writ petitioner; nor could the writ petitioner have acquired any title over the disputed piece of land”.

“Once the land is declared to be public land, it is the duty of the writ petitioner to hand over possession of the disputed piece of land to the State Government.”

2. Aforequoted observation in our opinion is beyond the scope of the Appeal as title, possession of the appellant vendee and the contesting respondent over the suit property is subject to the final decision in First Appeal No. 58 of 2010 which is still pending before this Court. In the circumstances, aforequoted

observation in the order dated 15.04.2013 is deleted so that the learned Single Judge may proceed with the hearing of the First Appeal with a clean slate. The subject matter of the aforesaid First Appeal is 16 Kathas and odd lands within the heart of Patna town as such we deem it appropriate that the cloud over the suit property is cleared at the earliest which will be in the interest of both the Appellant, his vendor and the State.

3. Before parting with this order, we would like to incorporate the undertaking given by the learned counsel for the petitioner i.e., Akhil Bhartiya Paryavaran Avam Gram Vikash Sansthan, on instruction that the petitioner will not encumber the property in question or hand over the possession or create third party interest in any manner whatsoever. The petitioner shall however be at liberty to repair the existing construction.

4. M.J.C. No. 2904 of 2013 filed for initiating a contempt proceeding against the Circle Officer, Patna learned counsel for the petitioner has chosen not to press the same, which is accordingly disposed of.

(V.N. Sinha, J)

(Ahsanuddin Amanullah, J)

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