

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.815 of 2013

Arising Out of PS.Case No. -309 Year- 2010 Thana -null District- NALANDA (BIHARSHARIFF)

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1. Suresh Singh S/O Late Babu Ram Singh
2. Nakuldeo Singh @ Nakul Singh S/O Late Babu Ram Singh, both R/O Village-
Tira, P.S- Harnaut, Distt- Nalanda.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Santosh Kumar Singh S/O Sri Kamta Singh, R/O Village Tira, P.S- Harnaut,
Distt- Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rewti Kant Raman, Advocate

For the Respondent/s : Md. Aslam Ansari, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 21-04-2015

No one appears on behalf of the Opposite Party No.2 on
two consecutive dates.

The Petitioners seek quashing of the order dated
27.5.2013, by which the S.D.M., Biharsharif (Nalanda) has directed
the Petitioners to remove encroachment within a certain time limit in
Case No.309 (M.P.) of 2010 under Section 133 Cr.P.C.

It has been submitted that as per the Circle Officer's report
dated 2.7.2012 the Petitioners had constructed a new wall on the very
same old wall and there was no encroachment. In fact none of the
bystanders complained of any obstruction.

I find that the Court below has discussed the report of the
Circle Officer to the extent that the Petitioners had extended his wall
by 7 feet and had also encroached the tube well and brought it within

his control. Fact of the matter is that there was no encroachment and if at all there was, appropriate action would have been taken against the Petitioners in the last two years.

In such a situation, the matter is remanded to the S.D.M., Biharsharif (Nalanda) to get spot inspection done afresh by a Circle Officer, who shall report as to whether:

- (i) the Petitioners have constructed new wall on the very same old wall,
- (ii) by construction on his wall he had encroached his public land and if so to what extent,
- (iii) whether the tube well was on public land or was it supposed to be within the precincts of the Petitioners compound.

This enquiry shall be done within thirty working days from the date of receipt of this order. Thereafter the S.D.M., Biharsharif (Nalanda) will pass an appropriate order in accordance with law within the next three weeks.

With these observations, the application stands disposed of.

(Anjana Prakash, J)

Narendra/-

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