

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19748 of 2010

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Ram Pukar Rai son of Sri Ram Bahadur Rai, Kukhia Gram Panchayat Raj
Kateya, resident of village Kateya, P.S. Janta Bazar, Saran at Chapra
..... Petitioner/s

Versus

1. The State of Bihar through the Collector, Saran at Chapra
2. Rajendra Thakur son of Late Bhuali Thakur resident of village Khurauni
P.S. Janta Bazar, Saran at Chapra

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Prasad Yadav

For the Respondent/s : Mr. Anil Kumar Jha(Ga2)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

4 17-08-2015 Heard Mr. Yadav in support of the application.

One of the defendants namely Mukhiya of Gram Panchat Raj Kateya district Saran at Chapra, has filed the present writ application aggrieved by the order dated 18.08.2010 passed by the District Judge Saran at Chapra in Misc. Appeal No. 13 of 2010. The suit was filed by the plaintiff-respondent for grant of permanent injunction stating that the suit land was settled by the government with the father of the petitioner. He came in possession thereof and the Jamabandi was created in respect thereof and who was paying rent to the State of Bihar until he died. Thereafter the petitioner came in possession thereof. Some part/portion of the land was voluntarily left for construction of a community hall/building of the Panchayat. Subsequently, the



respondent started construction of school building on the land of the petitioner which propelled him to file an application under Order 39 Rule 1 CPC which was considered and rejected by the trial court vide order dated 25.03.2010. Dissatisfied thereat a miscellaneous appeal was preferred by the plaintiff which was heard and the appellate court while granting the status quo to be maintained by the parties in respect of the subject land held/observed as under in paragraph 9:-

“9. After going through the submission of the parties and also as per pleadings I find that there is document of settlement in favour of the plaintiff and in light of such settlement the name of plaintiff's father was duly mutated and said settlement order was not challenged by State of Bihar or Mukhiya. He is paying rent. The State of Bihar has no objection and P.C. has found that on some portion of the suit land the plaintiff has grown up wheat crop and some mango trees was planted by him and the same is standing. This fact shows prima facie case in favour of the plaintiff and further a balance of convenience also leans regarding his possession over the same portion of the land and if the defendants is allowed to construct the building then the plaintiff shall certainly suffers irreparable loss, though the defendant has constructed some portion of building but at present it is duty of the court to protect the pro property so that the fruit of decree should be available to the decree holder who so may any party. In such circumstances it is best remedy to maintain status quo at the spot and the trial court has not appreciated the real fact, physical feature and the documents as pleaded and submitted by the parties. Thus the order is found erroneous and against the fact and law. Accordingly the order of the trial court is set aside

and status quo is granted to the plaintiff/appellant till disposal of the case so that the fruit of decree may be available to the decree holder. Accordingly, this appeal is disposed of.”

The reasons assigned by the appellate court for granting the relief do not suffer from any patent illegality meriting interference by invocation of writ jurisdiction under Article 227 of the Constitution of India.

The writ application fails and is dismissed.

Since the status quo has been granted, it is expected that the trial court will expedite the disposal of the case and the party will cooperate with the court in doing so.

(Kishore Kumar Mandal, J)

HR/-

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