

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4267 of 2015

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Rameshwar Thakur Son of Sri Ram Das Thakur, resident of Village Bishamverpur,
P.S. and P.O. Bihta-801103, District- Patna.
At present residing at village Nizampur, P.O. and P.S. Noubatpur, District- Patna.

.... Petitioner

Versus

1. The State of Bihar
 2. The District Magistrate, Patna Collectariate, District- Patna 800001.
 3. The Sub-Divisional- Magistrate, Danapur Cant, Danapur 800015
 4. The Senior Superintendent of Police, North Gandhi Maidan, Patna 800001.
 5. The Circle officer, Bihta Block, Bihta District- Patna 801103
 6. The Officer in Charge Bihta Police Station District- Patna.
 7. Ajay Bajpai Son of Shyam Bihari Bajpai, Sichha Mitra, Bishamherpur Prathamik Vidyalaya, Bihta.
 8. Bhimsen Paswan Son of Late Gyan Chand Paswan,
 9. Hansraj Paswan Son of Late Gyan Chand Paswan,
- All are residents of village Bishamverpur P.S. and P.O. Bihta 801103, District Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Chandra Bhushan Singh, Advocate

For the Respondent

nos.1 to 6 : Mr. Priyadarshi Matri Sharan, A.C. to A.A.G. XI

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 04-11-2015

Heard the parties.

Petitioner seeks following reliefs by filing this writ
application:-

(i) For issuance of an appropriate writ / order or direction to respondents to vacation of encroached land by which have encroached and grabbed by Respondent no. 7, 8 and 9 constructing house on that said land of this petitioner which Khata No.297, plot no.835 and area 10.5 Decimals in Mauja Bishamverpur, Bihta, District- Patna

(ii) For issuance of an appropriate writ / order or direction to specially respondent no.2 to vacate the said above land by their administration and handed over to this petitioner in possession of that said land which have been grabbed by

respondent no.7, 8 and 9 by Goonda- Gardi and forcibly also save the life of this petitioner who is on threat from that unsocial elements also.

(iii) For issuance of an appropriate writ / order or direction to respondents as required at the time of hearing and may be with cost and others reliefs as sought of judicator.

It is submitted by the petitioner that the land concerned has been purchased by his ancestors through a registered sale deed 29.04.1938 and that has been recorded in the name of the ancestors and subsequently in the name of the petitioner in the year 2012. However, respondent nos.7, 8 and 9 have made encroachment upon the land and have grabbed it. The petitioner filed a case before the D.C.L.R., which was allowed vide Annexure B to the supplementary affidavit. It appears that the D.C.L.R., after considering the cases of the respective parties, has come to the conclusion that from the records and the evidence produced on behalf of the parties that the petitioner has right title over the land and, thus, a direction was made for demarcation of his land so that possession could be delivered in his favour. However, when nothing was done, the petitioner again approached the D.C.L.R. and this time, vide Annexure C dated 07.10.2014, he has held that the order passed by the predecessor was without jurisdiction and, thus, the same cannot be executed as the D.C.L.R. did not have any jurisdiction under the Bihar Land Disputes Resolution Act, 2009 to decide the title of a person. Hence this writ application has been filed by the petitioner.

In my view also, the order passed by the D.C.L.R. as contained in Annexure B to the supplementary affidavit was without jurisdiction as he did not have any jurisdiction to adjudicate upon the complicated issue of conflict of title between the parties. A reference in this regard is made to a decision of rendered by a Division Bench of this Court in **Maheshwar Mandal and another v. State of Bihar and others [2014(3) PLJR 281]**.

In my opinion, such dispute between private parties with regard to the right, title and interest can also not be adjudicated in a proceeding under Article 226 of the Constitution of India.

Accordingly, this writ application is dismissed. However, this order would not come in the way of the petitioner in raising his claim before a competent forum.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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