

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18983 of 2013

Ashok Kumar Harijan, son of late Prahlad Hari Mohalla Khanjarpur Jalim Koiri
Tola Lane, Mayaganj (Barari), within Bhagalpur Municipality, P.S. Kotwali,
District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Bhagalpur.
3. The Circle Officer, Jagdishpur, Bhagalpur.
4. Divisional Commissioner, Bhagalpur.
5. The Municipal Corporation, Bhagalpur.
6. The Principal, Jawahar Lal Nehru Medical College and Hospital, Bhagalpur
7. The Land Acquisition Officer, Bhagalpur.
8. The Joint Secretary, Department Of Harijan Koshang, Bhagalpur.

.... Respondent/s

Appearance :

For the Petitioner : Mr. Anupa Nand Jha, Advocate
For the Respondent-State : Mr. S.Raza Ahmad, A.A.G.IX
Mr. Vishwambhar Prasad, A.C. to A.A.G.IX
For the Respondent No.5 : Mr. Manish Kumar Sinha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 02-02-2015

This writ petition is filed challenging the general order passed by the respondents herein. The order, in turn, was passed in the light of the directions issued by this Court for removing the encroachments from the Jawahar Lal Nehru Medical College and Hospital. The 3rd respondent verified the record and found that the

petitioner has no right or title over the land.

Heard Shri Anupa Nand Jha, learned counsel for the petitioner, and Shri S. Raza Ahmad, learned counsel for the Respondents.

Quite large extent of land was acquired for Jawahar Lal Nehru Medical College and Hospital in the year 1964. Over the period, encroachments have taken place. C.W.J.C. No.6684 of 2010 was filed in public interest stating that the State is indifferent towards the encroachments and on account of the same, atmosphere in the hospital is completely spoiled. This Court passed orders from time to time ever since the houses constructed by the petitioners herein as encroachments. When the petitioner claimed his title, the 3rd respondent has undertaken verification of the record and expressed the view that the petitioner does not have the title.

We find it difficult to admit the writ petition. The reason is that disputed questions of fact exist; that too regarding right and title in respect of immovable property. In our view, civil suit is the proper remedy. If the petitioner is so advised, he has to work out his remedies by filing a civil suit before a Civil Court.

The writ petition is dismissed. However, it is left open to the petitioner to work out the remedies in the Civil Court.

Since the structures were existing for quite some time,
we stay the demolition thereof for a period of four weeks.

(L. Narasimha Reddy, CJ)

(Vikash Jain, J)

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