

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2652 of 2015

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1. Koko Chaoudhary S/o Late Madan Choudhary resident of Village - Ganguly, Ward No.- 2, Panchayat - Ganguouly, PO-Sakhmohan, Manda, Police Station - Bibhutipur, Sub-Division - Rosera, District - Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resource Department, Government of Bihar, Secretariat, Patna - 800001.
2. The Secretary, Water Resource Department, Government of Bihar, Secretariat, Patna - 800001, Bihar.
3. The District Magistrate, Zila Samaharnalay, Begusarai, Bihar.
4. The Circle Officer, Vibhutipur, P.S- Vibhutipur, Sub-Division-Rosera, District - Samastipur, Bihar.
5. The Chief Engineer, Water Resource Department, Bihar.
6. Executive Engineer, Flood Control Management, Rosera, District - Samastipur, Bihar.
7. M/s Ramanan Construction Company, Mohanpur, PS - Begusarai, Muffasil, PO & District - Begusarai, Bihar.

.... Respondent/s

with

Civil Writ Jurisdiction Case No.4726 of 2015

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1. Pawan Kumar Choudhary S/o- late Madan Chaudhary r/o - village-Gangauli, P.O.- Shakh Mohan, P.s- Bibhutipur, District-Samastipur.
 2. Pashupati Chaudhary S/o- lakhani Chaudhary r/o- village- Gangauli. P.O.- Shakh Mohan, P.S- Bibhutipur, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Secretary, Water Resources Department, Government of Bihar, Patna.
3. The District Magistrate, Samastipur.
4. The Circle Officer, Anchal- Bibhutipur, District- Samastipur.
5. The Chief Engineer, Water Resources Department, District-Samastipur.
6. The Executive Engineer, Flood Control Management, District-Samastipur.
7. M/s Ramanan Constructions Company, Mohanpur, P.S. - Begusarai, Mufassil, District- Begusarai.

.... Respondent/s

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Appearance :

(In CWJC No.2652 of 2015)

For the Petitioner/s : Mr. Ravindra Kumar @ Ravindra Kr Rai, Adv.

For the Respondent/s : Mr. Prasoon Sinha, GA-2

(In CWJC No.4726 of 2015)

For the Petitioner/s : Mr. Nagadeo Choubey, Adv.

For the Respondent/s : Mr. J.P. Karn, AAG-4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

04-05-2015

Heard learned counsel for the parties.

The grievance of the petitioners in the two writ petitions is that the respondent authorities in the District of Samastipur have extracted soil from their respective plots. Whereas the petitioner in C.W.J.C.No.2652 of 2013 complains of extraction of soil from Plot No. 2214 of Khata No. 117 having an area of 13 decimals, Plot No. 2213 and 2209 of Khata No. 118 having an area of 2 acre and 2 decimals, the petitioners in the other writ petition complain of extraction of soil from Plots Nos. 2209, 2210, 2213 and 2214 of Khata Nos.117 and 118. The land in question is situated in village Gangauli, Circle Bibhutipur in the District of Samastipur.

Counter affidavits have been filed by the respondent Nos. 3 and 4, respondent Nos. 5 and 6 and respondent No.7 separately and a unilateral stand has been taken in each of the affidavits relying upon a report submitted by the Circle Amin that whereas no soil has been extracted from Plot Nos. 2209 and 2213, some extraction has been carried out in Plot No. 2214 to the extent of 1 dhur. It is also stated that in so far as Plot No. 2213 is concerned the previous Mukhiya has extracted some soil for constructing road. Whereas petitioners in C.W.J.C. No. 2652 of 2015 have

relied upon a sale deed executed in 1961 to establish their right over the plots in question, there is no such document on record of the second writ petition.

Be that as it may, the rival contentions advanced by the parties reflect a dispute on facts and even the extent of soil extraction is not clear. For instance both the petitioners complain of extraction from Plot No.2214 of Khata No. 117 but the respondent while accepting such extraction to the tune of 1 dhur terms the land as a 'Gairmajarua Aam Land' (Kism Dagar) and the two petitioners have also not clarified as to the extent of extraction.

In the circumstances discussed and in view of the disputed facts arising in the two writ petitions, in my opinion, a writ remedy is not the proper recourse and the petitioners if so advised would be at liberty to take recourse to such other remedy as available to them in law for establishing their respective complaints and for redressal of their respective grievances.

The writ petitions are disposed of accordingly.

Bibhash/-

(Jyoti Saran, J)

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