

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5566 of 1998

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Ali Imam, son of late Mohammad Ali Raza, resident of Village- Janglia, P.S. and District Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Gopalganj
3. The Zila Parishad, Gopalganj through its Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Gopalganj
4. The District Engineer, Zila Parishad, Gopalganj
5. The Circle Officer, Gopalganj Circle, Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananajay Kumar,
Mr. Sunil Prasad,
Mr. Harendra Prasad Singh, Advocates.

For the Respondent/s : Mr. Satya Prakash Tripathy, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 26-02-2015

Heard the parties.

The matter relates to Plot No. 166. An encroachment proceeding was initiated against the petitioner vide Land Encroachment Case No. 6 of 1975-76/6 of 1982-83. The parties have appeared and placed their grievances. As per the claim of respondents which is appearing in the order that the petitioner has encroached upon the road of the district Board to the extent of 11'x33' from northern side and 33'x0' of the southern side that has been disputed by the petitioner. It appears that on the concession of the lawyer for the Zila Parishad encroachment proceeding was dropped. Against that order an Encroachment

Appeal No.29 of 1998 is pending before the District Magistrate for disposal and this Court does not know the status of that appeal.

Learned counsel for the petitioner submits that the question of encroachment arose in the year 1912. In civil suit proceeding the parties have entered into compromise and the judgment and decree of the said suit is not before this Court, in such view of the matter, no comment can be made. If the petitioner is so sanguine that he has not encroached the land and he has right over that portion of land and if he wants to show that on the basis of compromise the right has been vested upon him, he will be at liberty to file a proper suit and get a decree before proper court of civil jurisdiction. So much so he can also produce all relevant documents before proper authority showing his right and title over the land in question.

This Court directs the Collector under the Bihar Public Land Encroachment Act to initiate a fresh proceeding and he will be obliged to give notice to the petitioner will make proper measurement and after taking consideration of all his plea will pass an order in accordance with law. If the order goes against the petitioner, he will be at liberty to challenge the same before appropriate authority. Till the conclusion of the fresh proceeding

the possession of the petitioner will not be disturbed.

With the aforesaid observation and direction this writ
petition is disposed of.

Vinay/-

(Shivaji Pandey, J)

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