

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1128 of 2015

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Ram Pravesh Prasad @ Ram Pravesh Yadav, son of Sanichar Yadav,
Resident of village- Chiddi, P.S. Fatehpur, District-Gaya,

.... Petitioner/s

Versus

1. The District Magistrate, Gaya
2. The Superintendent of Police, Gaya.
3. The Sub Divisional Magistrate, Sadar, Gaya,
4. The Circle Officer, Fatehpur Officer, Gaya
5. The S.H.O. Fatehpur, P.S. District- Gaya
6. Ram Sharan Prasad son of Sanichar Yadav, Resident of village- Chiddi,
P.S. Fatehpur, District-Gaya
7. Satyadeo Yadav
8. Sahdeo Yadav
9. Sakaldeo Yadav, All sons of Ram Sharan Prasad, All are residents of
village- Chiddi, P.S. Fatehpur, District- Gaya

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Manish Dhari Singh, Advocate

For the Respondent/s : Mr. Jai Shankar Barnawal, GA-5

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

3 11-05-2015

Heard.

The petitioner complains of obstruction / encroachment by the private respondents over a passage carved out from a land bearing Khata No. 57, Plot No. 650 in village-Chiddi in the district of Gaya having areas of 6 $\frac{3}{4}$ decimals which was partitioned amongst them and a passage measuring 7 kari was left out for public use.

It is not in dispute rather admitted that the land in question is the ancestral property of the petitioner and the private respondents. It is the case of the petitioner that the passage so left, was developed under the MLA fund and according to the

petitioner it has acquired a nature of *aam rasta*.

It is a complaint of the petitioner that the private respondents have constructed a wall and have created obstruction on the passage. A proceeding under Section 133 of the Code of Criminal Procedure though having been drawn in favour of the petitioner, the orders are not being complied even when the criminal revision filed by the respondents has been dismissed by the Revisional Court.

Having heard Mr. Manish Dhari Singh, learned counsel for the petitioner and learned counsel for the State and considering the nature of dispute raised herein, I am of the opinion that a writ remedy would not be a proper remedy for the petitioner for the nature of grievance raised herein. Even if the passage in dispute has acquired a nature of a public passage, until such time that the State acquires the same, it cannot not come within the confines of a public land. The nature of dispute raised is purely private and the remedy for the petitioner would lie elsewhere and not in a writ proceeding. The petitioner, if so advised, may take recourse to the same.

The writ petition is disposed of.

(Jyoti Saran, J)

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