

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4653 of 2009

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Birendra Prasad Singh aged about 60 years, son of Late Nokhu Singh,
resident of Muhalla- Kamruddinganj, P.S. Laheri, District- Nalanda

.... Petitioner

Versus

1. The State of Bihar
 2. The Collector, Nalanda
 3. The Circle Officer, Bihar Block-1, Bihar Sharif, District- Nalanda
- Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Santosh Kumar Sinha 2
Mr. Vidya Nand Kumar

For the Respondent/s : Mr. AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

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4 28-04-2015 Heard Sri Santosh Kumar Sinha, learned counsel for

the petitioner and learned AC to Principal Addl. Advocate

General.

The petitioner, invoking writ jurisdiction of this Court under Article-226 of the Constitution of India, has prayed for restraining the Respondents from interfering with the right, title and possession of the petitioner over lands pertaining to Tauzi No.11088 Khata No.83, Khesra no.292 area 0.82 decimals. The petitioner has claimed that in respect of the same land, he had filed a Title Suit for declaration of title and possession vide Title Suit No.113 of 1994, which was allowed and Judgment and Decree was passed in favour of the petitioner. The petitioner has brought

on record the Judgment dated 05.11.2004 passed in T.S. No.113 of 1994. He submits that despite the judgment and decree, the Respondents started to disturb the peaceful possession over the land of the petitioner and, as such, the petitioner was constrained to approach this Court.

In this case, by an order dated 17.09.2010, while granting time to State Counsel for filing counter affidavit, a Bench of this Court directed that the possession of the petitioner over the land mentioned shall not be disturbed by the State authorities.

In this case, a counter affidavit has been filed on behalf of Respondent nos.2 and 3. In paragraph-10 of the counter affidavit, it has been indicated that against the judgment and decree passed in T.S. No.113/94 the Circle Officer, Biharsharif has filed Title Appeal no.18/2004, which is pending before the District Judge, Nalanda. However, in paragraph-12 of the counter affidavit, it has been indicated that scheme for renovation of Dhaneshwar Ghat, pond over the land in question, was sanctioned and the Executive Engineer, R.W.D., Division Biharsharif was made its executing agency. However, at the time of hearing, learned counsel for the petitioner accepts that after the order of stay granted by a Bench of this Court, the State authority has not taken any step to disturb the possession of the petitioner.

Learned State Counsel submits that the matter is sub judice before the court of competent jurisdiction.

In view of stand taken in the counter affidavit, it is evident that the Respondents had tried to interfere with the possession of the petitioner. In normal course, in absence of any specific cause of action, the writ petition was not required to be entertained, but in view of statements made in the counter affidavit, the Court is of the opinion that the writ petition can be disposed of with direction to the State authority that till final decision is taken in the appeal i.e. Title Appeal No.18/2004, the Respondents may not taken any step to disturb the possession of the petitioner contrary to judgment and decree passed in T.S. No.113 /1994.

The writ petition stands disposed of.

(Rakesh Kumar, J)

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