

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4890 of 2014

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Kusum Lal Kamat, son of Late Chaturi Kamat, Resident of Village- Parsa,
P.S. Ghoghardiha, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sri Girivar Dayal Singh, The Collector, District- Madhubani.
3. Sri Vijay Kumar, The Sub Divisional Officer, Phulparas, District- Madhubani.
4. Sri Sunil Kumar Sahu, the Circle Officer, Ghoghardiha, District- Madhubani.
5. Smt. Pawan Devi , The Mukhiya of Parsa South Gram Panchayat, Police Station- Ghoghardiha, District- Madhubani.
6. Sri Niraj Mishra, the Station House officer (The Officer-in-Charge), Ghoghardiha, Police Station- District- Madhubani.

.... Opp.Parties

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Appearance :

For the Petitioner/s : Mr. Baleshwar Kamat
For the State : Mr. Md. Anis Akhtar, AC to GA-1.

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

6 20-04-2015 Heard learned counsel for the petitioner and

learned counsel for the State. The contempt application has been

filed alleging willful and deliberate violation of the order of this

Court dated 11.10.2012 passed in CWJC No. 19159 of 2012.

By the said order this Court had disposed of the

writ application with a direction to respondent no.4, Circle

Officer, Ghoghardiha, District – Madhubani to dispose of the

representation filed by the petitioner in accordance with law.

The grievance of the petitioner was with regard to

certain encroachment made by private respondent of the case on certain public land. Earlier the stand taken by the opposite party no. 4 in his show cause was that on account of pendency of Title Suit No. 79/1993 in which an injunction order had been passed on 22.9.1994, the Circle Officer was unable to comply with the order of this Court.

The petitioner in his reply to the show cause stated that the said injunction has been set aside by order dated 15.1.1999 in M.A. No. 17 of 1994 filed by the State of Bihar itself stating that the Circle Officer, Ghoghardiha had deliberately made a false report before this Court.

In the show cause filed today, it is stated that no deliberate attempt has been made to disobey the order of this Court. Rather on account of lack of full information, the Circle Officer had made the aforesaid statement and thereafter on the basis of statements made by the parties, he had passed order on 27.3.2015 dropping the encroachment proceedings in view of the pendency of the Title Suit before the Civil Court.

Learned counsel for the petitioner now submits that the Title Suit itself has been disposed of.

This Court finds such conduct of the petitioner reprehensible as the statement regarding pendency of the Title

Suit was made on behalf of the opposite party no.4 but no such statement regarding pendency of the Title Suit has been made in the rejoinder to the show cause filed earlier.

Learned counsel for the petitioner prays for further time to file another reply in the light of the aforesaid facts which has come to his knowledge.

In our view, the question in the contempt petition is whether the direction of this Court has been willfully violated or not. There does not appear to be any deliberate disobedience of the order of this Court. From the conspectus of the facts placed before us, whether the Title Suit is pending or not, is a matter which ought to have been pointed out by the petitioner in the earlier reply to the show cause itself.

In the earlier reply to the show cause also it was not open to the petitioner to play hide and seek in order to put the opposite party into inconvenience or in a position whether they might be considered to be in contempt, even though there is no deliberate violation.

In the aforesaid view of the matter, we find no merit in the contempt application. It is, accordingly, dismissed.

It is however, made clear that in case the Title Suit has finally been decided and decree has attained finality holding

that the land in question is a public land, it would be open to the petitioner to pray for initiation of fresh proceedings under the Bihar Public Land Encroachment Act.

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

S.Pandey/-

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