

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20323 of 2010

With
Interlocutory Application No.1942 of 2015

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Shahabad Parish Society, through its Secretary Fr. Oswald Saldanha, SJ
Parish Priest, Catholic Church, Katira, Ara, Bhojpur District, Bihar
..... Petitioner/s

Versus

1. The State of Bihar
2. Lal Babu Rai, S/O Late Ramashray Rai, R/O Pakari, Ward No. 12, P.S.-
Nawada, Ara, Distt.- Bhojpur, Bihar- 802301
3. Measurement Superintendent, Bhojpur, Distt.- Ara
..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. K.M.Joseph
Mr. Hemant Kumar
For the Respondent nos.1&3: Mrs. Nivedita Nirvikar, GA-10
Mr.Manoj Kumar, AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 26-03-2015 Heard learned counsel appearing on behalf of the petitioner as also learned AC to GA-10 appearing on behalf of the respondent nos.1 and 3. However, none appears on behalf of the respondent no.2, though he has entered appearance through his learned counsel, whose name is printed in the daily cause list.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the original order dated 09.09.1987 passed in Objection Case No.18 of 1986 by the Assistant Superintendent of Municipal Survey, Bhojpur at Ara (Annexure-7 to the I.A.No.1942 of 2015) as also the appellate order dated 18.02.2010 passed in Appeal No.170 of 1987 by the Superintendent of Municipal Survey, Bhojpur at Ara annexed with the main writ petition, but not marked as Annexure. Both the original order and the appellate order have been passed under the provisions of Bihar and Orissa Municipal Survey Act, 1920.

While assailing the validity and correctness of the

aforesaid two orders, the learned counsel appearing on behalf of the petitioner has raised various issues of facts with respect to lands under dispute, fully detailed in the writ petition. He has also pointed out that with respect to lands under dispute, a Title Suit No.526 of 2001 is pending in the court of learned Sub-Judge-1st, Ara (Bhojpur) in which the petitioner is also one of the defendants.

Since the learned counsel appearing on behalf of the petitioner is assailing the correctness of the original order as also the appellate order by raising only the issues of facts, therefore, this Court is not inclined to interfere with the impugned orders. However, a liberty is granted to the petitioner to get all the issues of facts with respect to lands in question decided in the aforesaid pending Title Suit No.526 of 2001 or the petitioner may file a fresh civil suit for grant of appropriate reliefs after impleading all the necessary parties.

It is clarified that the pending Title Suit No.526 of 2001 between the parties or a fresh Title Suit brought by the petitioner with respect to the lands under dispute, after impleading all the necessary parties, shall be decided by the civil court of competent jurisdiction on the basis of the materials/evidence produced by the parties, without being prejudiced or influenced by the findings recorded by the revenue authorities in the impugned orders.

The writ petition stands finally disposed of with the observations and directions made above. I.A.No.1942 of 2015 also stands disposed of accordingly.

Arvind/-

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(Birendra Prasad Verma, J)