

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10065 of 2014

=====

Drigonmeshwar S/o Late Baidya Sitaram, residence of Mohalla - Harding Road
(Kranti Marg), PO-GPO, P.S.-Sachivalya Town,District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary, Building Construction Department Bihar Patna
3. Collector - cum - District Magistrate, Patna.
4. Senior Superintendent of Police, Patna.
5. General Manager, BSEB, PESU, Patna.
6. Executive Engineer, PESU, New Capital Circle, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Drigonmeshwar

For the Respondent/s : Mr. Manoj Kumar

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-11-2015

Heard learned counsel for the petitioner and
learned counsel for the State.

In the present application, the petitioner has
made a prayer for commanding and restraining the respondents
or any public servant from entering into the petitioner's ancestral
house built over plots nos. 1197, 1192, 1193, 1994 and 1245 of
Khata no. 114 of the revenue village Dhirachak, Pargana-
Phulwari, District-Patna.

With respect to plot no. 1245, the petitioner has
submitted that this plot is subject matter of CWJC No. 10390 of
2013, same has been withdrawn, the relief with regard to this
plot is outside the scope of consideration. The basic claim has



been based on the basis of a purchase made by his grandfather. With regard to the aforesaid land, the petitioner has filed an interlocutory application, vide I.A. No. 4621 of 2014, where he has stated that he has wrongly been mentioned plot nos. 1192, 1193, 1194 be allowed to be deleted and in its place, plot no. 1217 Khata no. 282 be allowed to be added in the whole of the writ application.

Today, he has brought a photo copy of the judgment for the first time before this Court without giving notice to the other side and on that basis when the decree has been passed with respect to plot no. 1217 in his favour, he is claiming that the officers of the State Government be restrained to any way disturb the petitioner from the possession or any other activity, as whole of the claim is based on the purchase made by his grandfather. In whole of the writ application with regard to the other plots, he has obtained the decree which has been executed in view of the order passed in LPA No. 764 of 2008 and there the State Government unsuccessfully contested the matter. The case is based on unregistered document.

The State in his affidavit, has stated that over these plots, the Bungalow of the Government officials are standing as well as Office of the Election Commission is also running there thereby disputing the title of the petitioner over the said plots.

As the case is based on unregistered document, this Court in a disputed question of fact cannot decide the right, title and possession of the parties and cannot give any direction to the State Government and its officials in any manner not to disturb the petitioner with regard to plot nos. 1197, 1192, 1193 and 1194. With regard to plot no. 1217, the averment in the writ application, is based on the aforesaid judgment and decree, brought at the ends of the litigation, the petitioner cannot be allowed to delete the aforesaid plot and insert the plot no. 1217 at every place of the writ application, as it is a fact that the photo copy is not part of any writ application or interlocutory application, has not been given notice to the other side and in such view of the matter, this Court cannot give any opinion about the right, title and possession over the plot no. 1217. The petitioner, if so advised, may take legal recourse as available in law in the present case. With regard to declaration of title over the plot nos. 1179, 1192, 1193 and 1194, this Court does not find any purpose to keep this matter pending in view of disputed question of fact accordingly, the same is dismissed.

The petitioner if so advised may take legal recourse as available in law.

Photo copy of the judgment be kept on record for the future reference.

Mahesh/-

U			
---	--	--	--

(Shivaji Pandey, J)