

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15103 of 2015

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Maharaj Sharan son of Saheb Sah, resident of Village-Hematpur, P.S.+P.O.-
Dighwara, District- Chapra, Saran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
3. The District Magistrate, Chapra, Saran.
4. The District Development Commissioner-cum-Executive Officer, Chapra, Saran.
5. The Sub Divisional Officer, Sonapur, District- Chapra, Saran.
6. The Block Development Officer, Dighwara Block, District- Chapra, Saran.
7. The Circle Officer, Dighwara Block, Chapra Saran.
8. The Executive Officer, Dighwara Nagar Panchayat, Chapra, Saran.
9. The District Engineer, Zila Parishad, Chapra, Saran.
10. The Executive Officer, Zila Parishad, Chapra, Saran.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
For the Respondent/s : Mr. M.K. Sinha, SC-1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 07-10-2015 Learned counsel for the petitioner is permitted to make
correction in the khata number in the writ petition.

Heard Mr. Ranjeet Kumar, learned counsel appearing on
behalf of the petitioner and Mr. Arun Kumar for the Zila Parishad.

The petitioner is aggrieved by the action of the authority
of the Zila Parishad, Chapra and the Nagar Panchayat, Dighwara
in making construction of shops over Plot No. 167 of Khata No.
72 at village-Hematpur, P.O. Dighwara in the District of Chapra.



According to the petitioner plot no. 167 is a public road and the authorities of the Zila Parishad by construction of the shops are making encroachments and trying to alter the physical feature of the public road.

Mr. Ranjeet Kumar, learned counsel for the petitioner has referred to a Division Bench judgment of this Court reported in **2000(3) BLJ 284 (Chandan Kumar Singh vs. State)** and with particular reference to paragraph-13 to 16 it is submitted that the Division Bench have come out very heavily on the local authority in permitting encroachments on public road and thus altering the physical features.

A counter affidavit has been filed on behalf of the Zila Parishad and in which it is stated that the case is otherwise and in fact the Zila Parishad after removing the encroachment is utilizing that part of the road which was earlier a ditch by construction of the shops which in no manner would obstruct the passage of the petitioner. It is further stated that no portion of the road is being utilized rather sufficient passage has been left for the movement of the public.

With reference to the map it is submitted by Mr. Arun Kumar that it is manifest therefrom that whereas plot no. 166 is a public road, on the other hand, plot nos. 165 and 167 were in the



nature of ditch as well as a public road. He submits that it is the ditch area which has been filled up by the Zila Parishad for utilizing the same in construction of the shops and which in no manner obstructs the passage of the petitioner. He further submits that for approaching the public road situated on Plot No. 166, again sufficient passage has been given to the public. He submits that the argument of Mr. Ranjeet Kumar that the Zila Parishad has encroached on the road for construction of the shop is not correct rather it is that part of the road which was earlier unutilized by virtue of being a ditch which has been filled up for the construction of the shops.

Mr. Ranjeet Kumar contesting the argument submits that the respondents have no business to make any such alternation for it affects not only public movement but also devalues the property possessed by the petitioner due to the obstruction so caused.

In my opinion, in view of the public purpose involved and the explanation given by the Zila Parishad, the grievance raised by the petitioner does not merit consideration. The writ petition is dismissed.

(Jyoti Saran, J)

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