

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21463 of 2014

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Aakash Kant, son of Sri Srikant Prasad, resident of Vikash Medico, Near N.M.C.H., Agam Kuan, P.S. - Alamganj, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Patna, Bihar.
2. The Land Acquisition Officer, Patna, Bihar.
3. The Additional Collector, Patna Sadar, District - Patna.
4. The Circle Officer, Patna Sadar, District - Patna.
5. The Officer-in-charge Alamganj, P.S. - Alamganj, District - Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate

For the Respondent/s : Mr. Sheo Shankar Prasad, S.C.10

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 02-02-2015

This writ petition is filed with a prayer to direct the respondent no.1 not to demolish the house of petitioner constructed over plot no.1689, Thana No.17, Tauzi No.274, Khata No.63, Khesra No.172 of total area measuring 1 katha, 2 dhur and 1 dhurki, situated in village- Sadikpur Sangram, P.S. Alamganj, District-Patna. The order, in turn, was passed in the light of the directions issued by this Court for removing the encroachments from the Nalanda Medical College & Hospital. The 4th respondent verified the record and found that the petitioner has no right or title over the land.

Heard Shri Sumeet Kumar Singh, learned counsel

for the petitioner, and Shri Sheo Shankar Prasad, learned S.C.-10 for the Respondents.

Quite large extent of land was acquired for Nalanda Medical College & Hospital in the year 1958-1959. Over the period, encroachments have taken place. C.W.J.C. No.6684 of 2010 was filed in public interest stating that the State is indifferent towards the encroachments and on account of the same, atmosphere in the hospital is completely spoiled. This Court passed orders from time to time ever since the houses constructed by the petitioners herein as encroachments. When the petitioner claimed his title, the 4th respondent has undertaken verification of the record and expressed the view that the petitioner does not have the title.

We find it difficult to admit the writ petition. The reason is that disputed questions of fact exist; that too regarding right and title in respect of immovable property. In our view, civil suit is the proper remedy. If the petitioner is so advised, he has to work out his remedies by filing a civil suit before a Civil Court.

The writ petition is dismissed. However, it is left open to the petitioner to work out the remedies in the Civil Court.

Since the structures were existing for quite some time, we stay the demolition thereof for a period of four weeks.

(L. Narasimha Reddy, CJ)

(Vikash Jain, J)

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