

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23570 of 2012

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1. Ram Ayodhya Prasad, S/O Late Banarsi Sah
 2. Shanti Devi, W/O Ram Ayodhya Prasad and D/O Late Sita Ram Sah
Both resident of Village & P.S.- Raxaul, Ward No. 20 (New), District-
East Champaran.

.... Petitioners

Versus

1. The State of Bihar, through the District Magistrate, East Champaran at
Motihari.
2. The District Magistrate, East Champaran at Motihari
3. Mr. Jitendra Prasad Sah, the Sub-Divisional Magistrate, Raxaul, East
Champaran
4. The Block Development Officer, Raxaul, East Champaran
5. The Circle Officer, Raxaul, East Champaran
6. Munni Choudhary, S/O Late Baidyanath Chaudhary, Mukhiya, Gram
Panchayat Raj Laxmipur, Raxaul, District- East Champaran.
7. Permender Ptatap Singh @ Manoj Singh, son of Uday Singh, R/O
Village- Raghunathpur, P.O. & P.S.- Ramgarwaha, District- East
Champaran.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh

For the Respondent/s : Mr. Nirbhay K. Singh, GP-26

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**
ORAL ORDER

5 05-01-2015 The petitioners, who are husband and wife, have filed

this writ application for prohibiting official respondents, namely,

respondent nos. 3 to 6 from helping respondent no.7 from taking

forceful possession of land comprised of Khata no. 6, Plot

no.1894, area 10 Dhurs and Khata no. 6/357, Plot no. 1894/30,

area 7 Dhurs situated in Mauza Dhangar Toli Kaurihar, Thana

no.7, Tauzi no.951 under Raxaul Block.

2. It is relevant to notice here that earlier some

private respondents began to interfere with the possession of the

petitioners on an area measuring 10 Dhurs of Plot no. 1894 of Khata no. 6 of Mauza Dhangar Toli Kaurihar on the basis of benefit under Indira Awas Scheme.

3. Being aggrieved, the petitioners filed C.W.J.C. No. 18379 of 2008. In the aforesaid writ application, the official respondents did not dispute the possession and ownership of petitioners on 10 Dhurs of land and as such the Indira Awas Yojana on the aforesaid land was annulled.

4. The petitioners in this writ application has raised a dispute with respect to 7 Dhurs of land of Khata no. 6/357, Plot no. 1894/30 situated in the said Mauza. However, in the prayer portion, a relief has also been claimed with respect to 10 Dhurs of land, which was subject matter in C.W.J.C. No. 18379 of 2008 and Contempt application arising out of the writ application, as such this Court would restrict itself with respect to relief with respect to 7 Dhurs of land situated on Khata no. 6/357, plot no. 1894/30 situated in the said Mauza.

5. The official respondents have filed counter affidavit. They submit that on the application of the petitioners, a proceeding under Section 144 of Cr.P.C. was initiated and disposed of on 09.08.2012. The order dated 09.08.2012 is contained in Annexure-E to the counter affidavit. The Sub-



Divisional Officer in his order observed that the land in question belongs to Bettiah Raj, which was settled with one Vishnu Dhangar. Furthermore, the second party is claiming to have purchased the said land from the descendants of Vishnu Dhangar. The Sub-Divisional Officer observed that the second party is claiming only 15 dhurs of land, whereas the area of the land is much more than that. As both the parties, have staked their title over the land, which involved adjudication of disputed question of facts, the Sub-Divisional Officer advised him to approach the competent Civil Court for decision with respect to their title.

6. Counsel for the petitioners submits that the instant 7 Dhurs of land in fact is adjacent and is contiguous to 10 Dhurs of land, which was wrongly allotted to some one under Indira Awas Yojana. The petitioners have also claimed title over the said 7 Dhurs of land. The petitioners alleges that official respondents as well as the then Mukhiya were helping private respondent in their design to dispossess them.

7. Counsel for the respondents submits that the Sub-Divisional Officer has been transferred and a new Sub-Divisional Officer is functioning in his place.

8. It goes without saying that the official respondents are to act in accordance with law and they have not to take side of

either of the parties.

9. This application is disposed of with liberty to both sides to settle the matter before the competent court of law with respect to seven Dhurs of land of Khata no. 6/357, Plot no. 1894/30 of Mauza Dhangar Toli Kaurihar. The respondents would not help either of the parties with respect to the plot in question.

(Samarendra Pratap Singh, J.)

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