

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1735 of 2016

H. D. Jain College Ara through its Principal Dr. Chadnrashkekhar Saha, son of late Jamuna Prasad Surajpuri , P.O.-Ara , P.S Ara town, Ara District Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Bhojpur, Ara.
3. The Sub Divisional Officer Ara Sadar Bhojpur.
4. Ara Municipal Corporation, Ara through its Executive Officer.
5. The Executive Engineer, Ara Municipal Corporation, Ara.

.... Respondent/s

Appearance :

For the Petitioner	:	Mr. Sunil Kumar Singh, Advocate
For the Respondent Nos.1 to 3	:	Mr. P. K. Sinha, A.C. to G.A.V
For the Respondent Nos. 4 & 5	:	Mr. Bishwa Bibhuti Kumar Singh, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 24-11-2016

The petitioner has invoked the writ jurisdiction of this Court commanding the respondents not to raise construction of a road on the land of the petitioner.

2. The stand of the petitioner is that the land in question has been found to be encroached upon by the Municipal Corporation, Ara, which is evident from the gift deed dated 22.2.1945. Therefore, such land, which is encroached upon, should be made encroachment free so that students of the college can use the land effectively.

3. We do not find that any relief can be granted to the

petitioner in the present writ application. Firstly, it is not public interest litigation, but a private interest of the petitioner, who is claiming removal of the alleged encroachment on its land. For individual action, the writ petition, that too, in public interest, is not an appropriate remedy. Secondly, whether the Municipal Corporation has encroached upon any land of the petitioner would be a disputed question of fact. Such disputed question of fact can be adjudicated upon after giving parties to lead evidence in respect of the title and/or possession of the land in question.

4. We do not find that the petitioner can be granted any relief in the present petition. The writ petition is dismissed.

5. However, it will be open to the petitioner to invoke any other remedy as the petitioner may choose for redressal of its grievances.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Sunil

AFR/NAFR	N. A. F. R.
CAV DATE	N. A.
Uploading Date	29.11.2016
Transmission Date	