

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19568 of 2014

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Kailash Thakur, S/o Late Jaisu Thakur, R/o Mohalla - Bagmali Ward No. 5, Survey Ward No. 3, P.S. Town Hajipur, District - Vaishali.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Urban Development & Housing Department, Govt. of Bihar, Patna.
2. The District Magistrate, Vaishali at Hajipur.
3. The Sub Divisional Officer, Hajipur, Vaishali.
4. The Circle Officer, Hajipur, Vaishali.
5. The Executive Officer, Nagar Parishad, Hajipur, Vaishali.
6. The Superintendent of Police, Vaishali at Hajipur.
7. The Officer In charge, Town Police Station, Hajipur, Vaishali.
8. Prabhu Sah, S/o Jaikishun Sah
9. Deepak Sah, S/o Jamun Chaudhary
10. Kanhai Singh, S/o Ram Bilash Singh
11. Raju Sah, S/o Jagarnath Sah, All resident of Mohalla - Bagmali ward No. 5 Survey Ward No. 3, P.S. Town Hajipur, District - Vaishali.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ram Shankar Das, Advocate.
For the Respondents : Mrs. Rachana Patil, Advocate.
Mr. Ajay, Advocate.
Mrs. Himani Kumari, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 28-03-2016

Heard learned counsel for the petitioner and the respondents.

2. The petitioner, in public interest, has approached this Court for a writ of mandamus to remove the encroachment from the road situated in Survey Ward No. 3, Mohalla- Bagmali, Ward No. 5, Hajipur Nagar Parishad. The encroachment is said to be of raising a temple on the road.

3. Various orders have been passed from time to time. On 29th of February, 2016 the District Magistrate, Hajipur and Executive Officer, Nagar Parishad,

Vaishali were present in Court. Today a counter affidavit has been filed pointing out that the encroachment to the extent it is possible to remove has been removed. It is also submitted during the course of hearing that now the vehicular traffic can move on the road in question. It is also pointed out that a civil suit in respect of the alleged encroachment has been preferred by Respondent No. 8 bearing Title Suit No. 48 of 2016, which is pending.

4. Keeping in view the stand of the State authorities that encroachment has been removed so as to enable the traffic to move, we do not find that any further directions are called for in the present petition, more so, when regarding the same property a civil suit is pending before the Civil Court. It shall be open to the petitioner to take recourse to other proceedings including to seek impleadment in the said civil suit for redressal of his grievance.

5. Learned counsel for the respondents pointed out that the District Magistrate and the Executive Officer are in Court campus awaiting visitor's pass. Keeping in view the above order, we dispense with their personal presence.

6. The writ application is, thus, disposed of.

(Hemant Gupta, J)

(Anjana Prakash, J)

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