

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15323 of 2013

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1. Sheela Devi W/O Ganesh Modi Resident of Sheopuri Pokharia, Town and District- Begusarai
 2. Bina Devi W/O Dhanik Lal Das Resident of Sheopuri Pokharia, Town and District- Begusarai
 3. Ashok Mahto S/O Ramprakash Mahto Resident of Sheopuri Pokharia, Town And District- Begusarai
 4. Ramanand Rai S/O Late Tarkeshwar Prasad Resident of Sheopuri Pokharia, Town and District- Begusarai
 5. Indramohan Kumar S/O Late Tarkeshwar Prasad Resident of Sheopuri Pokharia, Town and District- Begusarai

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Deptt. of Urban Development, Govt. of Bihar, Patna
2. The Collector, Begusarai
3. The Additional Town Commissioner, Municipal Corporation, Begusarai
4. The Executive Officer, Municipal Corporation, Begusarai
5. The Sub-Divisional Magistrate, Sadar, Begusarai
6. Amit Kumar S/O Yugal Kishore Singh Village- Sheopuri, Post- Pokharia, P.S. and District- Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Indu Kumari Sinha, Adv.

For the Respondent/s : Mr. Manoj Kr. Ambastha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 06-04-2016 Heard Ms. Indu Kumari Sinha, learned counsel for the petitioners, learned counsel for the State and Mr. Tej Pratap Singh, learned counsel for the Begusarai Municipality.

The petitioners are aggrieved by the order dated 27.7.2011 passed by the Additional Municipal Commissioner, Begusarai Municipal Corporation whereby the claim advanced by the private respondent has been upheld. Perusal of the records of the writ petition manifests that the private respondent had earlier come



before this Court in C.W.J.C.No.18884 of 2010 complaining of illegal construction of drainage over his private land bearing Khata No.73 and Khesra No.169. The writ petition was disposed of requiring the municipality to take appropriate decision on the dispute. It is thereafter that the matter was considered by the Additional Municipal Commissioner and by the impugned order passed on 27.7.2011 he has upheld the claim of the private respondent in regard to construction of the drainage over his raiyati land and has permitted the private respondent to restore its possession. In so far as the complaint of the private respondent regarding construction of road is concerned, the Commissioner has given liberty to approach the authority concerned. The petitioners herein claim share in the holdings and submit that the order has been passed without hearing the petitioners. There is nothing on record to establish this claim of title and possession. On the contrary, it is admitted at the bar that a civil dispute is pending consideration before the civil court in Title Suit No.140 of 2013 (Amit Kumar Vs. Sanjay Paswan & Ors.) in between the parties. Ms. Sinha admits that the petitioner is also a party in the title suit.

In the circumstances where the issue raised by the petitioner is apparently a civil dispute to be resolved before a court of competent civil jurisdiction and admittedly a civil suit is pending

consideration, in my opinion the issue raised by the petitioners would be guided by the opinion expressed by the civil court in the pending suit where the petitioners would be at liberty to raise all issues as raised herein.

This writ petition warranting no indulgence, is disposed of accordingly.

(Jyoti Saran, J)

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