

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25545 of 2013

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Ashok Sinha son of Late Chandeshwari Prasad Resident of Mohalla-Khairabad (Mahalpar), Ward No. 33, P.O. & P.S.- Biharsharif, District-Nalanda (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Govt. of Bihar, Patna
3. The Principal Secretary, Urban Development Department, Bihar, Patna
4. The District Magistrate, Nalanda at Biharsharif
5. The Sub-Divisional Officer, Biharsharif, District- Nalanda
6. The Circle Officer, Biharsharif, District- Nalanda
7. The Superintendent of Police, Nalanda At Biharsharif
8. The Officer-In-Charge, Sohsarai Police Station, District- Nalanda
9. The Municipal Commissioner, Biharsharif, Nalanda through its City Commissioner
10. The City Commissioner, the Municipal Corporation, Biharsharif, Nalanda
11. The Executive Officer, the Municipal Corporation, Biharsharif, Nalanda

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Arun Kumar, Advocate

For the Respondent/s : Mr. Dhurjati Kr Prasad, G.P.-7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 28-04-2016 Heard Mr. Arun Kumar for the petitioner, Mr. Faiz Ahmad, Assisting Counsel to GP-7 for the State and Mr. G.P. Ojha appearing for the Bihar Sharif Municipal Corporation.

The grievance of the petitioner is that the vacant land present on the northern side of his residential house situated on Khesra No. 810 of Khata No. 254, Thana No. 113 in Mauza-Wazidpur having an area of 0.12 decimals in the town of Bihar Sharif, District-Nalanda coming under the jurisdiction of Bihar Sharif Municipality has been interfered with by the authorities of the Corporation to lay a concrete road thereon without his



permission. According to the petitioner the vacant land available between the house of the petitioner and one Indradeo Yadav has a width of six feet of which five feet of the land belongs to the petitioner while one foot has been left by the said Indradeo Yadav. While admitting that this land was left vacant for personal use, it is canvassed by Mr. Arun Kumar that it was never meant for public passage and for which a proceeding under Section 144 was also initiated. According to him the authorities of the Corporation have at the behest of the Ward Councillor constructed the concrete road thus interfering with the raiyati rights of the petitioner. With reference to Annexure-5 it is stated that the attention of the Town Commissioner was invited by the petitioner as back as on 20.9.2014 but which remains pending.

While Mr. Faiz Ahmad, learned State Counsel has submitted with reference to a report of the Revenue Karamchari that the vacant land is equally shared by the petitioner and the said Indradeo Yadav and which is being used as public passage by the villagers but such contention has been contested by Mr. Arun Kumar.

Counsel for the State and Municipal Corporation have argued that the report submitted by the Inspector shows that the passage was being used by the villagers since long without any objection by the petitioner and it is in consideration of the

circumstances that the road was constructed and Section 144 proceeding was dropped.

Be that as it may, since the Corporation does not dispute that the character of the land has a raiyati ownership, the Town Commissioner would have to consider the grievance of the petitioner and dispose of the same after opportunity of hearing to the petitioner and since it is admitted that a portion of the passage is owned by one Indradeo Yadav as well, hence it would also be in the interest of justice that the said land owner be also given opportunity to clarify the position.

Since the petitioner has already approached the Town Commissioner, Municipal Corporation, Bihar Sharif at Nalanda vide his representation placed at Annexure-5 which is stated to be pending since 20.9.2013, hence an expeditious disposal of the issue in accordance with law and after hearing the concerned parties preferably within three months from the date of receipt / production of a copy of this order, would serve the purpose.

The writ petition is disposed of.

(Jyoti Saran, J)

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