

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1883 of 2015

In

Civil Writ Jurisdiction Case No. 19654 of 2013

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Radhakishun Singh, S/o Late Jangi Singh, Resident of Village + P.O.
Dhanauti, P.S. Charpokhari, District Bhojpur (Ara).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sri Pankaj Kumar Pal, the District Collector, Bhojpur at Ara.
3. Sri Avinash Kumar Singh, the Circle Officer, Charpokhari, Bhojpur.
4. Motichand Singh, S/o Late Bhukhan Singh, Resident of Village + P.O.
Dhanauti, P.S. Charpokhari, District- Bhojpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Nagendra Upadhyay
For the Opp. Party-State	:	Mr. Prabhat Kumar, AC to GA-2
For the Opp. Party no.4.	:	Mr. Devendra Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

6 17-02-2016 Heard Mr. Nagendra Upadhyay, learned counsel appearing for the petitioner, Mr. Prabhat Kumar, learned Assisting Counsel to Government Advocate No.2 for the State and Mr. Devendra Prasad Singh, learned counsel appearing for the private opposite party.

This contempt application has been filed by the intervenor in the writ petition complaining of disobedience by the Circle Officer, Charpokhari in the district of Bhojpur to abide by the direction issued by this Court in CWJC No.19654 of 2013.

Notice was issued to the opposite party no.4 who was the writ petitioner before this Court as well the State was



directed to file show-cause. A show cause was filed by the Circle Officer submitting that the order stands complied. The writ petitioner-opposite party no.4 filed his reply submitting that though the encroachment had been removed but without following the due process of law. It is in these circumstances that this Court directed the Circle Officer to place on record the order-sheet in the encroachment proceeding and which has since been filed through a supplementary show cause. A plain reading of the order-sheet manifests that appreciating the order passed by this Court in CWJC No.19654 of 2013 the opposite party no.4 presented himself on 8.1.2015 and at his request the matter was adjourned and taken up on 13.3.2015 when he filed his reply and prayed to drop the proceedings. The Circle Officer in consideration of the circumstances existing rejected his prayer and upheld the encroachment. It is thereafter that notices were issued requiring the opposite party no.4 herein to remove the encroachment and not being carried out that ultimately it was removed on 7.8.2015.

Although Mr. Singh, learned counsel appearing for the writ petitioner-opposite party no.4 has submitted that the Circle Officer has proceeded in an arbitrary manner but considering the materials on record and the order-sheet in the

encroachment proceeding, in my opinion the issue raised on behalf of the opposite party no.4 does not constitute contempt and would have to be canvassed by him in an appropriate proceeding before an appropriate forum. The opposite party no.4 if so advised may take recourse to the same.

In the circumstances discussed, I do not find any reason to continue with the contempt proceedings which is accordingly disposed of.

(Jyoti Saran, J)

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