

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16400 of 2015

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Rajesh Kumar Gupta

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Nandan Sahay

For the Respondent/s : Mr. Ajay Bihari Sinha

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

4 02-02-2016

Heard the learned counsel, Mr. Ravi Shankar Sahay for
the petitioner.

The intervener-petitioner has filed this application under
Article 227 of the Constitution of India for setting aside the order
dated 11.08.2015 passed by learned Munsif, Bhabhua, Kaimur in
Title Suit No.139 of 2011 whereby the Court below has rejected
the application under Section 16 of the B.P.L.E. Act.

It appears that the plaintiff-respondent Nos.6 to 8 has
filed Title Suit No.139 of 2011 praying for the relief of injunction
for restraining the State Authorities from demolishing the house of
the plaintiffs constructed on Schedule 'ka' land which is the land
of the petitioner and it is wrongly stated by the State Authorities
that the petitioner has encroached the public land. Thereafter,
written statement was filed. Petitioner filed application for
intervention under Order I Rule 10 C.P.C. By terms of order dated



21.05.2013, the Court below allowed the intervention application and added the petitioner as defendant in the suit. After addition of the petitioner as defendant, the petitioner filed an application under Section 16 of the B.P.L.E. Act and prayed for dismissal of the suit as not maintainable. The application filed by the intervener is Annexure 4 to the writ application.

Perused the order passed by the Court below. Although the plaint has not been annexed with the application, the learned counsel for the petitioner produced a copy of the plaint before this Court at the time of hearing of the writ application. From perusal of the plaint, it appears that the plaintiff has stated the bundle of facts regarding how he is in possession of the property and how he constructed the building on plot and also stated that he has not encroached any public land and thereafter, he prayed the relief for injunction only against the defendants-State Authorities.

It may be mentioned here that the intervener is not claiming any right or interest in the suit property rather he is only an intervener and, therefore, in fact, the plaintiff has not prayed for any relief against the intervener-petitioner.

So far Section 16 of the B.P.L.E. Act is concerned, it provides that no suit or other legal proceeding shall lie in any court in respect of any order passed under this Act.

So far the present suit is concerned, it may be mentioned here that the suit is not against any order passed under the Bihar Public Land Encroachment Act. The suit has been filed simply for injunction on the basis of title claimed by the petitioner. In such circumstances, Section 16 of B.P.L.E. will not apply.

In view of the above facts and circumstances of the case, the Court below has rightly rejected the application, therefore, the same cannot be interfered with in exercise of supervisory jurisdiction.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

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