

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6505 of 2016

Most. Jhanakia Devi, Daughter of Shiv Balak Bhuiyan, resident of the village -
Manjhar, P.O. - Cherki, Sub-Division - Sherghati, Anchal + P.S. - Gurua, District -
Gaya.

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Gaya at District Gaya.
2. The District Magistrate, Gaya at District Gaya.
3. The Circle Officer, Gurua, P.S. Gurua at District - Gaya.
4. The Anchal Amin, Anchal Gurua, P.S. Gurua at District Gaya.

.... Respondents

Appearance :

For the Petitioner : Mr. Ajay Kumar Sinha, Advocate
: Mr. Mahendra Thakur, Advocate
For the State : Mr. Rakesh Kumar AC to SC8

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 13-05-2016

Heard parties.

The petitioner is aggrieved by the proceeding of removal
of encroachment from 11 decimal of plot no. 315 which, according to
him, stands already settled in his favour by the State of Bihar.

Counter affidavit has been filed on behalf of State and
original records have been produced. It is contended on behalf of the
State that the writ petition has been filed under gross misconception
as it is evident from the notice contained in Annexure-4 itself that no
part of plot no. 315 is going to be touched rather the encroachment
upon plot nos. 318 and 288 is going to be removed in as much as
part of construction has spilled over those plots.

Learned counsel appearing for the petitioner, on instruction, submits that he does not have any claim over plot nos. 288 or 318.

It is also urged on behalf of the State that out of 11 decimals of land stands in favour of petitioner, he has illegally transferred 03 decimals of land by executing registered sale deed. Per contra, learned counsel for the petitioner submits that the sale deed is a forged and fabricated document and a title suit has already been filed for its annulment.

Be that as it may, the stand of the State is quite clear that no part of plot no. 315 is to be touched by them for removal of any encroachment from road, however, the construction which may have spilled over the road would be removed.

Accordingly, this writ application is being disposed of with a direction that a measurement should be made of plot nos. 315 and it should be demarcated in the presence of petitioner and only thereafter any proceeding for removal of encroachment would continue, however, there would be no impediment in proceeding for demolition of any construction of the petitioner also if that is standing over plot nos. 318 and 288.

So far, the case for cancellation of *Parwana* is concerned, the state would be at liberty to proceed with it in

accordance with law but no order should be passed without granting
reasonable opportunity to the petitioner.

(Dr. Ravi Ranjan, J.)

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