

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1445 of 2015

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Mohammad Abul Kalam Dafali S/o late Md. Siddique Dafali resident of village Vauara Mohala Mathasagar Ward No. 26 Madhubani Town P.S. Madhubani, Distt. Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Madhubani.
2. The District Magistrate, Madhubani.
3. The Sub Divisional Magistrate, Madhubani.
4. The Station House Officer, Town Police Station, Madhubani.
5. The Executive Officer, Madhubani Nagar Parishad, Madhubani.
6. Md. Mustafa Dafali S/o Late Md. Siddique Dafali, Shop No. F/14, Gandhi Bazar P.S. under the Nagar Parishad, Madhubani, resident of village Vauara Mohala Mathasagar Ward No. 26 Madhubani, Town P.S. Madhubani, & Distt. Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 24-02-2016

Heard learned counsel for the parties.

The writ petition has been filed seeking a direction to the official respondents to ensure implementation of the order passed by the respondent no. 5, contained in Memo No. 519 dated 08.11.2004, by which the shop, belonging to the late father of the petitioner and respondent no. 6, was directed to be divided into half and possession given to the petitioner and the respondent no. 6.

The undisputed facts of the case are that the respondent no. 6, who is the brother of the petitioner, had earlier been allotted another shop by the respondent no. 5 and the shop of their father was transferred in the name of the respondent no. 6

as per the wishes of the allottee i.e., their father in his lifetime in the year 2002. Thereafter, upon the death of their father in the year 2004, upon there being controversy with regard to the shop, the respondent no. 5 passed the impugned order by which the shop in question was sought to be divided into two equal parts in favour of both the persons.

Learned counsel for the petitioner submits that it is inequitable that his brother would have two shops whereas the petitioner would have none and that too settled by the same authority. He thus prays that the Court under his equitable jurisdiction may interfere in the matter so that justice is done.

Learned counsel for the State, respondent no. 5 and the respondent no. 6 have filed counter affidavits. The Court was thus inclined to go into the merits of the matter and pass appropriate orders. However, at this juncture, learned counsel for the respondents no. 5 and 6 submit that they are agreeable to a settlement. Learned counsel for the respondent no. 6 submits that he is agreeable to the arrangement as contained in Memo No. 519 dated 08.11.2004 for half of the shop being given to the petitioner. The Court appreciates such stand of the respondent no. 6 for resolving the issue between brothers.

Accordingly, the writ petition stands disposed off with a direction to the respondents no. 3, 4, and 5 to ensure that the order contained in Memo No. 519 dated 08.11.2004 is implemented on the ground within two weeks from today and the

petitioner and respondent no. 6 are put in possession of their respective shares.

(Ahsanuddin Amanullah, J.)

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