

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15107 of 2016

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Gajendra Prasad Sinha son of Late Rambriksh Singh resident of Mohalla Ashok
Nagar, Road No. 11, Kankarbagh, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Patna, Bihar.
2. Senior Superintendent of Police, Patna, Bihar.
3. Officer Incharge, Kankarbagh Thana, Patna, Bihar.
4. Executive Magistrate, Sadar Patna, Patna, Bihar.
5. Vidya Nand Singh, Advocate Commissioner, resident of Churi Market, Kadam
Kuan, District - Patna.
6. Dr. Chandrashekhar Kumar Singh, S/o Late Jhalendra Narayan Singh, resident of
village and P.O. Keshav Nagar, P.S. Chautham, District Khagaria

.... Respondents

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Appearance :

For the Petitioner	:	Mrs. Shama Sinha. Advocate
For the State	:	Mr. Rishi Raj Sinha- SC19
For the Intervenor-	:	M/s D.K.Sinha, Sr. Advocate
Respondent		Bajarangi Licensing authority A.K.Ghosh, Ankit Katriar, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-11-2016

I.A. No. 7826/2016

It is being claimed by the intervenor that upon his
application execution case has been filed and demarcation and

demolition work is going at the behest of the direction given by the executing court.

In the facts and circumstances of the case, in my view intervenor is a necessary party in this proceeding.

Accordingly I.A. No. 7826/2016 is allowed. The intervenor stands added as respondent no. 6. Office to take necessary steps in this regard.

C.W.J.C. No.15107 of 2016

Heard parties.

It is contended on behalf of the petitioner that the mother of the petitioner had purchased 4 kathas of land of plot no. 247, khata no. 29 in the year 1965 and, since then, after constructing a house his family is residing in. Part of the same is being utilized for running a school. That part has illegally being demolished by the State authorities under the garb of an order passed by the execution court but it is contended that the execution court has not passed any order for demolition of his house rather has ordered for delivery of possession of different portion of the plot no. 247.

Per contra, learned counsel appearing for the respondent no. 6 has submitted that the vendor of the petitioner was the defendant in the partition suit in which preliminary decree and thereafter, final

decree has been passed and the entire plot no. 247 was allotted in favour of the plaintiffs and, from the plaintiffs, this respondent had purchased the land so the petitioner cannot claim upon any part of plot no. 247. Matter had travelled up-to and has been set at rest even by the Apex Court.

This is being resisted by the petitioner by saying that the respondent had purchased 3 kathas of land only and he cannot represent the case of others who are residing on other parts of the plot no. 247. However, this is admitted case that the partition suit was filed in the year 1962 and the transaction under which the petitioner's mother had purchased the land, was made during the pendency of the title partition suit.

In my view, such disputed questions cannot be decided in the present proceeding. On such view having been expressed by this Court, learned counsel for the petitioner seeks liberty to approach the competent forum which would be available to him under law.

Accordingly, this writ application stands disposed of granting such liberty to the petitioner. He may file any application before such competent forum within a period of 30 days. However, till filing of such application or for a maximum of 30 days, let no further

part of the house, which is in possession of the petitioner, be demolished.

Thereafter, the competent forum which the petitioner would choose to approach, would take a decision on its own merit and in accordance with law without being prejudiced by the present order as this court has not expressed its view or formed any opinion regarding the merit of the case or regarding possession of any party upon the disputed plot.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.11.2016
Transmission Date	NA