

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12120 of 2015

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Ravi Sahu S/o - Mishri Sahu Resident of Village - Galma, Post - Ghanshyampur,
P.S. - Ghanshyampur, District - Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary of Bihar, Patna.
2. Divisional Commissioner, Darbhanga.
3. The District Magistrate, Darbhanga.
4. Block Development Officer, Ghanshyampur, Darbhanga.
5. Bhola Jha S/o - Kari Jha Resident of Village - Galma, Post - Ghanshyampur, P.S.
- Ghanshyampur, District - Darbhanga.
6. Lalkant Jha S/o - Kari Jha Resident of Village - Galma, Post - Ghanshyampur,
P.S. - Ghanshyampur, District - Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Ashok Kumar Singh, Advocate
For the Respondent/s : Mr Uma Shankar, GP 4

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CORAM: HONOURABLE MR JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 16-05-2017

Heard learned counsel for the petitioner and learned AC
to GP XII for the respondents.

The present writ application has been filed for a direction
to respondent No 3 to take needful action against respondents No 5
and 6 who are not allowing the petitioner to construct Indira Awas
over the land appertaining to Thana No 344, Khata No 562, Khesra
No 872 (new), 506 (old), an area of 7 dhurs situated in Village –
Galma, PS – Ghanshyampur in the district of Darbhanga.

It is submitted by learned counsel for the respondents,



relying on the statement made in paragraph 5 of the counter affidavit filed on behalf of respondents No 2 and 3 that Title Suit No 30 of 2015 (Bhola Jha –Versus- Mishri Sah & Others) is pending between the parties with regard to the land in question. The said fact is being controverted by the learned counsel for the petitioner stating that the land in question is not subject matter of Title Suit No 30 of 2015.

In view of this Court, the relief of the petitioner is based on disputed questions of fact which cannot be resolved in the present proceedings. The parameters for deciding the writ petition under Article 226 of the Constitution has been elaborated in the case of *City and Industrial Development Corporation –Versus- Dosu Aardeshir Bhiwandiwalla and Others*, reported in (2009) 1 Supreme Court Cases 168. Paragraph – 30 of the judgment reads as follows:-

“30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by



any valid law; and host of other factors.

The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to be complied with by the State. No relief could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to which he is not otherwise entitled to in law.”

In view of the facts stated above, this writ application is dismissed with liberty to the petitioner to raise all the issues in appropriate proceeding.

(Dinesh Kumar Singh, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.05.2017
Transmission Date	NA

