

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19273 of 2016

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Ganesh Prasad Yadav, Son of Matuk Yadav, Resident of Village- Sidhap
Kala, Tola- Harhi, P.S.- Ladania District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Madhubani
2. The Commissioner, Darbhanga, Division - Darbhanga.
3. The Collector, Madhubani, District Revenue Branch, Madhubani.
4. The Deputy Collector Land Reforms, Jainagar, Madhubani.
5. The Additional Magistrate, Madhubani.
6. The Sub-divisional Officer, Jainagar, Madhubani
7. Sri Hari Yadav, Son of Ramcharitar Yadav, Resident of Village-
Madhewari, P.S.- Jainagar, Madhubani.
8. Sri Kewal Choudhary, Son of Mauje Choudhary, Resident of Village
Kamlawara P.S. ..., District- Madhubani.
9. Prakash Mahaseth, Son of Yogendra Mahaseth, Jainagar, Ward No. 7
Madhubani.
10. Sri Manoj Singh, Son of not known to the petitioner, Resident of
Mohalla - Kamla Road, Jainagar, Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav, Adv.

For the Respondent/s : Mr. Raj Kishore Roy- GP-18

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

2 18-08-2017 Heard Mr. Gagan Deo Yadav, learned Counsel

appearing on behalf of the petitioner and Mr. Raj Kishore Roy,

learned GP-18, appearing on behalf of the respondent State.

The present writ application has been filed for a
direction to the respondent authorities to get the land/house of the
petitioner vacated in view of the order dated 24.01.2012, passed in
Misc. Case No. 148 of 2011-12, as contained in Annexure-2,
under the provisions of Bihar Land Dispute Resolution Act, 2009,



by Respondent No.4, the Deputy Collector Land Reforms, Jainagar, Madhubani, whereby, it was held that the land in question belongs to the petitioner. The land in question has been encroached by private respondent nos. 7 to 10.

Mr. Raj Kishore Roy, learned GP-18, appearing for the respondent State submits that the dispute is between the petitioner and the private respondent with regard to private land/house of the petitioner and, hence, the issue cannot be resolved in the present proceeding, as the same does not fall within the ambit of Bihar Public Land Encroachment Act.

The fundamental facts for determination of right, title of the petitioner over the land in question is not on record. Moreover, it requires leading of evidence to determine the respective rights of the parties over the land in question. In the case of **D.L.F. Housing Construction (P) Ltd Vs. Delhi Municipal Corpn. and Others, (1976) 3 Supreme Court Cases 160**, the question related to the right of ownership over a land, a Four Judge Bench of the Apex Court held that in a case where the basic facts are disputed and complicated question of law and fact depending on evidence are involved, the writ court is not a proper forum for seeking relief. Paragraph 18 reads as follows:

“18. In our opinion, in a case where the basic facts are disputed, and complicated questions of law and



fact depending on evidence are involved the writ court is not the proper forum for seeking relief. The right course of the High Court to follow was to dismiss the writ petition on this preliminary ground, without entering upon the merits of the case. In the absence of firm and adequate factual foundation, it was hazardous to embark upon a determination of the points involved. On this short ground while setting aside the findings of the High Court, we would dismiss both the writ petition and the appeal with costs. The appellants may if so advised, seek their remedy by a regular suit.”

This court agrees with the contention of the learned Counsel for the State.

Considering the nature of dispute and prayer made in the writ petition, this Court is not inclined to exercise the discretionary jurisdiction conferred under Article 226 of the Constitution of India.

Accordingly the writ application is disposed of with a liberty to the petitioner to avail the remedy before the appropriate forum

(Dinesh Kumar Singh, J)

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