

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1864 of 2016

=====

Shiv Chandra Prasad Singh, Son of Ram Prakash Singh, Resident of Mohalla- Loknathpur Ganj, Ward No.11 under Dal Singh Sarai Town, P.S. Dal Singh Sarai, District- Samastipur.

.... Petitioner

Versus

1. The State of Bihar.
 2. Principal Secretary, Urban Development, Govt. of Bihar, Patna.
 3. District Magistrate, Samastipur.
 4. Sub-Divisional Magistrate, Dal Singh Sarai, District- Samastipur.
 5. Executive officer, Nagar Panchayat Dal Singh Sarai. P.S. Dal Singh Sarai, District- Samastipur.
 6. Chairman, Nagar Panchayat Dal Singh Sarai, District Samastipur.
 7. Sri Anil Nayak Ward Commissioner, Ward No.11, Nagar Panchayat Dal Singh Sarai, District- Samastipur.
 8. Sadan Mishra, Son of Not known Principal Sareswati Siksha Sadan, Resident of Mohalla- Lok Nathpur, Ganj, Ward no. 11 P.S. Dal Singh Sarai, District Samastipur.
 9. Vijay Sah
 10. Sanjay Sah
- Son of Satya Narayan Sah, Both of Mohalla- Loknathpur Ganj, Ward No. 11, P.S. Dal Singh Sarai, District- Samastipur.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Arun Kumar, Advocate
For the Nagar Panchayat : Mr. O. P. Agrawal, Advocate
For the State : Mr. Jai Prabhat Kishore, A.C. to S.C. 13
For respondent no.8 : Mr. Rajani Kant Pathak,
Mr. Satish Kumar, Advocate

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 27-01-2017

Heard parties.

The Executive Officer, Nagar Panchayat, Dalsingsarai,
Samastipur is present.

Through this writ application, the petitioner seeks



following reliefs:-

“A) To issue a writ of mandamus or any other writ or writs. direction or directions commanding upon the respondents not to construct ‘NALA’ on the private land of the petitioner Left for personal use of the residential-cum-clinic of the Petitioner house in which the vehicle of the Petitioner as well as his Patients are parked. The details of land is given in para No.3 of the writ petition.

B) To restrain the respondents is doing any further work over the proposed ‘NALA’ till the disposal of the writ application.

C) To pass such other order or orders as this Hon’ble Court thinks fit and proper.”

In paragraph no.4 of the writ application, petitioner has stated to have purchased plot nos.284, 285 and 286 and has further stated that being a Doctor, he is running a clinic on the said land. He has left 74 feet long and 6 feet wide for his personal use on the western side of the plots.

Copies of the sale deeds have been appended with the writ application. In the western boundary of the land purchased through one of the sale deeds executed on 26.03.2012, 8 feet wide “Rasta” on plot nos.297 and 298 old is shown, whereas in other sale deeds having been executed in the year 2001, the plot nos.286 and 298 corresponding to plot no.241, have been shown as ‘Niji Rasta’.

When a question was asked as to how that ‘Niji Rasta’ has



been stated there? Whether the petitioner or his vendor has purchased plot no.297 or 298 or whether it is running in the survey record of right either in the name of the petitioner or his vendor, no answer is being given to that except reiterating that it is a 'Niji Rasta'.

In the absence of any statement as to how those lands either belong to the petitioner or his vendor, it would be very difficult for this Court to hold that 'Rasta' in the west on which Nala is being constructed belongs to the petitioner.

However, since the report is also sought by the Executive Officer, let the Circle Officer, Dalsingsarai, submit a report after thorough measurement of the plots stating as to whether private land of the petitioner is being utilized or not. He will also measure the new plot nos.241 and 243 and examine whether there is any evidence or document on record to show that those plots either belong to the vendor of the petitioner or the petitioner and how those plots stated recorded in survey records of right or Register II or they are public land or Government land or the land of the Nagar Parishad. Thereafter, such detailed report be submitted to the Executive Officer, Nagar Panchayat, Dalsingsarai, Samastipur within a period of two weeks. Let the Executive Officer take a decision afresh in accordance with law within a period of two months thereafter.

It is made clear that Nala should not be constructed on any



portion on any private land of the petitioner.

This disposes of the writ application.

Personal appearance of the Executive Officer is dispensed with.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2017
Transmission Date	NA

