

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13324 of 2013

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Narayan Prasad, S/O Late Hazarilal, R/O Mohalla - Lal Bazar, Dharmashala Road, P.S. - Bettiah (Muffasil), District - West Champaran, Bettiah

.... Petitioner

Versus

1. The State of Bihar , through the District Collector, West Champaran, Bettiah
2. The Sub-Divisional Magistrate, Bettiah
3. The Circle Officer, Bettiah Sadar, District Bettiah
4. The Dy. Collector (Land Reforms), District - Bettiah
5. Uma Shankar Jun Jhunwala S/O Not Known R/O Mohalla - Lal Bazar, Dharmashala Road, P.S. - Bettiah (Muffasil), District - West Champaran, Bettiah

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikram Jeet, Advocate
For the State :

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 27-04-2017 Heard learned counsel for the petitioner and learned
AC to SC-9 for the respondent State.

The present writ application has been filed for a direction to the respondent State to restrain respondent no.5 from making encroachment over the municipal road running from west of Hazarimall Dharmasala, since respondent no.5 has constructed iron gate obstructing the free flow of the traffic.

It appears that the petitioner along with others submitted representation before the DCLR, Bettiah and consequently, Encroachment Case No.115/2012-13 has been initiated. Subsequently, the encroachment proceeding was closed



vide order dated 29.03.2013, as contained in Annexure-3, since the matter in issue is *sub judice* before the High Court in CWJC No.2317/1997. The writ application does not depict the plot number on which the encroachment has been made.

A counter affidavit dated 03.04.2014 has been filed, on behalf of respondent nos. 1 to 4 stating in paragraph nos. 7 to 17 that Anchal Amin made the measurement of the road in question in pursuance to the order of the Circle Officer, Bettiah, respondent no.3 and found that Aam Rasta is situated on Plot No.5825 within the municipal area of Lal Bazar Bettiah. The Plot No.5826 is the land of Hazarimall Dharamsala Pvt. Trustee and the alleged iron gate has been fixed over Plot No.5826. Paragraph nos. 7 and 17 of the counter affidavit, read as under :-

"That it is submitted that having taken cognizance of the said writ application and other application received by other authorities the Anchal Adhikari directed the Anchal Amin to measure the road of land in question over which petitioner is making claim of encroachment made by respondent No.5. Accordingly, Anchal Amin measured the land of road in question on 24.01.2014 and reported that plot No.5825 is situated as Aam Rasta under Municipal Area of Lal Bazar, Bettiah and the said Aam Rasta of Plot No.5825 is connected towards west of the main



road of Lal Bazar, Bettiah and the said road of Plot No.5825 comes to end towards east at the Bank of the Plot No.5826 and Plot No.5826 is the land of Hazarimall Dharamsala Pvt. Trustee and the said Iron gate is situated over the land of Plot No. 5826.

17. That with regard to the statement made in paragraph no.10 of the writ application under reply it is stated the Anchal Amin demarcated the land of Road in question and reported that the Iron gate has been constructed by respondent no.5 over Plot No.5826 i.e. land of Hazarimall Dharamsala Trustee and Aam Gali road in running over plot no.5825."

In view of the above specific stand of respondent nos. 1 to 4, the writ application appears to be misconceived and is, accordingly, dismissed.

(Dinesh Kumar Singh, J)

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