

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9427 of 2015

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1. Amrendra Bihari Sharan
 2. Arvind Bihari Sharan
 3. Avinash Bihari Sharan, all Sons of late Awadh Bihar Sharan, Resident of Village- Dumra, P.S. Haspura, District Aurangabad, at Present Chitkohra Duplex Colony, Chit Kohra, Sheopuri House No. 13, P.S. Gardani Bagh, District- Patna.

.... Petitioners

Versus

1. The State of Bihar, through the District Magistrate, Aurangabad
2. The District Magistrate, Aurangabad
3. The Sub Divisional Officer, Daud Nagar Aurangabad
4. The Block Development Officer Haspura
5. Radhy Shyam Prasad, Son of Late Ramashish Sao, Mukhiya Gram Panchayat Dumra, Anchal Haspura, Resident of Haspura Shivam Hospital P.S. Haspura, District Aurangabad, Bihar
6. The Panchayat Secretary, Gram Panchayat Dumra, Anchal-Haspura, District-Aurangabad.
7. The Circle Officer, Haspura, District-Aurangabad.

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Nand Kishore Prasad Sinha, Adv.
For the State	:	Mr. Ajay Bihari Sinha, GA-8
		Mr. Upendra Kumar Singh, AC to GA-8

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 29-08-2017 Learned counsel for the petitioner is permitted to
implead the Circle Officer, Haspura as respondent no.7.

Heard Mr. Nand Kishore Prasad Sinha, learned
counsel for the petitioner and Mr. Ajay Bihari Sinha, learned
G.A.-8 for the official respondents.

The present writ application has been filed for a
direction to the respondent authorities for not constructing



drainage by encroaching the land of the petitioner, by filling earth over the drainage of the petitioner, as the petitioners' house is constructed over the raiyati land appertaining to Khata No. 70, Plot No. 1227, but the drainage water is being discharged through plot No. 1228 being Gairmajarua land, but due to construction of new drainage, the drainage discharge of the petitioner has been obstructed.

This Court vide order dated 17.09.2015, issued notice to respondent nos. 5 and 6, Panchayat Mukhiya, Gram Panchayat, Dumra and the Panchayat Secretary, Gram Panchayat, Dumra, but in spite of valid service of notice, respondent nos. 5 and 6 have chosen not to appear.

Mr. Ajay Bihari Sinha, learned G.A.-8 submits that in pursuance to the representation of the petitioner, respondent no.4, the Block Development Officer, Haspura called for a report from respondent no.7, the Circle Officer, Haspura who submitted that Encroachment Case No. 05 of 2015-16 has been initiated. Consequently, Circle Amin measured the land and found that the drainage is being constructed on Plot No. 1228 and not on the raiyati land of the petitioner appertaining to Plot No. 1227. Hence, the encroachment has not been made on the raiyati land of the petitioner. The measurement report has been brought on record



with sketch map, with the counter affidavit filed on behalf of respondent nos. 2 to 4.

Learned counsel for the petitioner while relying upon the reply to the counter affidavit submits that, it is the case of the petitioner that the drainage of his house has been constructed on his raiyati land appertaining to Plot No. 1227, but the drainage discharge of the petitioner used to be through Plot No. 1228, hence the new drainage has been constructed obstructing the drainage discharge of the petitioners' residential house. Moreover, during the measurement, the petitioners were neither noticed, nor they were aware about the measurement proceeding or the actual measurement.

Considering the rival submissions of the parties, this is not in dispute that the measurement of the land was made without noticing the petitioners and in spite of valid service of notice, respondent nos. 5 and 6 chose not to appear before this Court.

In the circumstances, it is expected from respondent no.7, the Circle Officer, Haspura, to get the land measured after giving appropriate notice to the petitioner and all affected persons and after measurement and respondent no.7 would monitor to ensure that the drainage discharge of the petitioners' residential



house is connected to the main drainage which has been constructed on Plot No. 1228. The whole exercise should be done within a period of three months from the date of receipt/production of the copy of this order.

Accordingly, with the above directions, the present Writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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