

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.443 of 2014

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1. Gorakh Nath Prasad S/O Late Dharmnath Prasad C/O Life Line Jaanch Ghar, Subhash Se Dakshin, Pokhra Mohalla, Hajipur, Vaishali.
 2. Ram Nath Prasad S/O Late Dharmnath Prasad C/O Life Line Jaanch Ghar, Subhash Se Dakshin, Pokhra Mohalla, Hajipur, Vaishali.

.... Petitioner/s

Versus

1. East Central Railway, Hajipur through its Chief General Manager.
2. Chief Administrative Officer, East Central Railway, Mahendrughat, Patna-800004
3. Divisional Railway Manager, Sonpur Division, Saran.
4. The State of Bihar through the Commissioner Cum Chief Secretary Health Service, Patna.
5. The Collector, Saran, Chhapra.
6. Circle Officer, Sonapur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Adv. Mr. Amit Prakash, Adv. Mr. Brishketu Sharan Pandey, Adv.
For the Respondent/s	:	Mr. Kumar Priya Ranjan, Adv. Mr. S.D.Sanjay, Addl.S.G. Mr. Bijoy Kumar Sinha, Adv. Ms. Shally Kumari, A.C. to S.C.24

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-09-2017

Heard Mr. Tej Bahadur Singh learned Senior counsel and Mr. Brishketu Sharan Pandey, learned counsel for the petitioners and Mr. S.D. Sanjay learned Additional Solicitor General for the Railways.

The writ petition was filed praying for a direction to the authorities of the Railways to remove encroachments which the petitioner claims to have been committed by the Railways on his raiyati land to the extent of 3 Kathas and 17 dhurs of Khata No.



188/250 Keshra No. 452, Mauja Parwejabad, Thana No.95 Circle Sonapur. While it is the case of the petitioners that such encroachment has been committed by the Railways some time back in the year 2010, the railways on the other hand have filed counter affidavit to contest this position and to submit that they are in possession of the land since 1939. Under the orders of this Court measurements have been carried out and which supports the claim of the petitioners but is being contested by the counsel for the Railways.

In the contesting nature of dispute so raised in the writ petition, in my opinion, the appropriate remedy for the petitioners would be to seek an appropriate declaration from a court of competent civil jurisdiction for the grievance so put up, does not only require a declaration in favour of the petitioner but also would require an order of restoration of possession in favour of the petitioner in case he succeeds in his quest which is to be tested on the stand of the respondent railways thereon.

Another aspect of the matter is that even if the plea of encroachment is to be upheld then the area of dispute requires to be demarcated which again lies within the domain of the Court possessed with competent civil jurisdiction.

In the circumstances so discussed, I deem it proper to dispose



of the writ petition leaving it open for the petitioners, if so advised, to take recourse to the civil law remedy as is available to them in law for redressal of the grievances so raised in the writ petition but in the disputed nature of contest, this Court refuses to exercise its extra ordinary jurisdiction.

The writ petition is disposed of.

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.09.2017
Transmission Date	NA

(Jyoti Saran, J)

