

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18287 of 2016

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1. Nand Kumar Singh Son of Late Ram Sevak Singh
2. Mukhtar Rai Son of Late Raghupat Rai Both residents of Mohalla-Premchand Path, Gaurakshni, Ward No.6, Sasaram, P.S. Sasaram (T), District Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, urban Development, Bihar Patna
2. The Chairman Municipal Corporation, Sasaram, Rohtas
3. The District Public Grievance Redressal Officer, Rohtas at Sasaram
4. The Municipal Executive Officer, Municipal Corporation, Sasaram, Rohtas
5. Ashutosh Kumar Singh @ Gopal Singh

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dudh Nath Singh

For the Respondent/s : Mr. ABBAS HAIDER- SC6

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 28-02-2017

Heard learned counsel for the petitioners and learned counsel for the respondent-State.

The present writ application has been filed for commanding the respondent authorities to remove the encroachment made by respondent no. 5 Ashutosh Kumar Singh alias Gopal Singh from Municipal Plot No. 548 being a public lane situated in Ward No. 6, Sasaram Municipal Corporation.

It is submitted by learned counsel for the petitioner that the father of respondent no. 5 purchased the land appertaining to Plot No. 550 in the name of his wife, namely, Lalmati Devi vide registered sale deed no. 3033 dated 16.4.1963/7.4.1963 wherein it has been stipulated that the original landlord, the vendor of respondent no. 5,



has left five feet wide area to be used as road in southern side, which was subsequently recorded in the year 2002-03 as road in new Survey map and Khatiyān of Municipality. The said public road has been encroached by respondent no. 5.

After hearing learned counsels for the parties, this court is of the view that writ jurisdiction cannot be exercised in the matter involving disputed question of fact. However, if land in question is a public road then the petitioner will be at liberty to file an appropriate application under section 3 of the Bihar Public Land Encroachment Act within a period of four weeks before the Collector, Sasaram when it is expected from the Collector, Sasaram to initiate encroachment proceeding and decide the same or get it decided by a competent authority in accordance with law within a period of six months of filing of such application.

With the aforesaid observation/direction, this writ application stands disposed of.

(Dinesh Kumar Singh, J)

Anil/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

