

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 318 of 2017

Along with

Interlocutory Application No. 1332 of 2017

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Birendra Thakur, Son of Late Bhikhari Thakur, resident of village - Khirodharpur,
P.S. Bikramganj, District - Rohtas at Sasaram.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms Department,
Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The Sub Divisional Magistrate, Bikramganj, District Rohtas.
4. The Deputy Collector Land Reforms, Bikramganj, District – Rohtas.
5. The Circle Officer, Bikramganj, District Rohtas.
6. The Panchayat Rojgar Sevak Officer, Bikramganj, District Rohtas.
7. The Panchayat Secretary, Panchayat Khirodharpur, Block Bikramganj, District
Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh and Mr. Dharmendra Kumar Singh, Advocates
For the Intervenor/Respondent	:	Mr. Jai Prakash Verma, Advocate
For the State	:	Mr. Rishi Raj Sinha, S.C. 19 Mr. Avanindra Kumar Jha, A.C. to S.C. 19

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 27-02-2017

Learned counsel for the parties have assisted the

Court.



Re.: Interlocutory Application No. 1332 of 2017

The present Interlocutory Application has been filed by one Arvind Pandey, for being added as respondent in the writ application.

Learned counsel for the intervenor applicant submitted that he has filed Title Appeal No. 36 of 2010, against the judgment and decree passed in favour of the petitioner in Title Suit No. 14 of 1997. He submitted that the same is to hold that the land is Government land and not private land.

When the Court asked learned counsel as to who was he, the reply was that he is a villager.

When the State itself has filed Title Appeal No. 2 of 2011, against the judgment and decree in favour of the petitioner, the Court does not feel any necessity of a private person to be involved in the matter as the State has to make out a case against the petitioner and no private person is required to unnecessarily intervene.

In view of the aforesaid, the Court does not find any justification for the intervenor applicant to be impleaded in the present application.

Accordingly, Interlocutory Application No. 1332 of 2017, stands dismissed.

Re.: Civil Writ Jurisdiction Case No. 318 of 2017

Heard learned counsel for the petitioner and the State.



Pursuant to order dated 13.02.2017, the District Magistrate, Rohtas is present in Court and has filed his show cause. A counter affidavit has also been filed on behalf of the respondents no. 2 to 5. In the show cause, the District Magistrate has explained as to why the earlier order of the Court dated 19.01.2017, for filing counter affidavit within a specified time was not complied with for which the stand is that he had entrusted the respondent no. 5 to file the counter affidavit on 30.01.2017 and also 06.02.2017. It has been stated that for not complying with the same, show cause has been issued to the respondent no. 5 as to why departmental proceeding be not initiated against him, on 16.02.2017.

Coming to the merits of the case, the stand of the State is that on the land where some work has been done of digging earth, is claimed by the State, but since there is judgment and decree by the competent Civil Court in favour of the petitioner, the State has filed Title Appeal No. 2 of 2011, which is pending. It is further an admitted position that there is no stay of the judgment and decree passed in Title Suit in favour of the petitioner. When the Court asked the District Magistrate and learned State counsel as to under what authority, when there was a decision in favour of the petitioner by the Civil Court of competent jurisdiction with regard to the land in question, work was being done on the same, without there being any order of stay in favour of the State, no answer was given. Learned



counsel for the State, upon instructions submitted that the District Magistrate would enquire into the matter and fix responsibility as to how this happened and whether appropriate 'No Objection Certificate' from the local administration was taken. It was submitted that the work might have been under the MGNREGA Scheme. However, they admitted that till the order in favour of the petitioner was not interfered in appeal or otherwise, the State has no right to interfere in the peaceful possession of the land of the petitioner.

In view of the position emerging, the writ petition is disposed off in the following terms:

The land, which is the subject matter of Title Suit No. 14 of 1997, and which has been decreed in favour of the petitioner, shall not be used by the authorities for any purpose till the order in the Title Suit is not interfered with. The authorities shall verify as to what work has been done on the land in question and thereafter shall restore the said land to its original shape. The same shall be done within one month from today. Till the time the petitioner has a valid order of the competent Court in his favour, his possession shall not be disturbed by the State authorities and depending on the outcome of the Title Appeal or any other proceeding, which may be initiated, the ultimate decision in such proceeding shall prevail ultimately. However, in view of the fact that the work has been done on a private land, as of now, in view of there being a decision of the Civil Court



of competent jurisdiction in Title Suit No. 14 of 1997, in favour of the petitioner with regard to the land in question, the Court has no hesitation to hold that the State authorities had no right to interfere in the possession of such land or to make any construction or otherwise use the land or change its nature or shape. That having been done and the Court having ordered for restoration of the land to the petitioner, the Court deems it appropriate to direct for the money, which has been spent, both for the work being done as well as for restoring the nature of the land, be recovered, after fixing responsibility on the person(s), who were responsible for it. The said exercise shall also be completed within two months from today.

Incidentally, the respondent no. 5 is present in Court. When the Court asked him as to why he had not responded to the direction of the District Magistrate, for sending instructions to the learned State counsel to file counter affidavit in the present case, no explanation is forthcoming and the only reply was that he was sorry for his conduct. The Court cannot expect such apology as it is indicative of an attitude where Court proceedings are taken casually by the officers, which cannot be accepted. A request from the learned State counsel for instructions, pursuant to a specific direction by the Court, not being complied with, is a serious matter as it has the effect of causing impediment in a pending judicial proceeding, which also amounts to contempt.



Be that as it may, the Court directs the Principal Secretary, Department of Revenue and Land Reforms (respondent no. 1) to initiate departmental proceeding against the respondent no. 5 for such conduct. The same be initiated within one week from today.

He shall also ensure that such proceeding is taken to its logical conclusion within three months. The Court, normally, would have left it to the discretion of the District Magistrate to take a call when already he had issued a show cause to the respondent no. 5 on 16.02.2017, but in view of the fact that the respondent no. 5, even after 10 days has not replied to such show cause, and also not offering any explanation and only submitting that he was sorry, the Court is of the view that the submission of show cause by the respondent no. 5 to the respondent no. 2 would be a mere formality, as ultimately he too would only be recommending for such proceeding. For such reason, the Court has straight away directed the respondent no. 1 to initiate departmental proceeding against the respondent no. 5 for his conduct where, by his act, not only judicial proceedings have been hampered, but there has been deliberate lack of cooperation by him.

Learned counsel for the State shall communicate the order to the respondent no. 1 forthwith, for compliance.

It shall be the responsibility of the District Magistrate to ensure compliance with regard to the other directions given in this



order.

The personal appearance of the District Magistrate,
Rohtas stands dispensed with.

(Ahsanuddin Amanullah, J.)

P. Kumar

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