

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8012 of 2014

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Ashok Jaiswal, Son of Rama Shankar Sah, Resident of Village- Manjhwalia Bazar,
P.S. Vijaipur, District- Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Gopalganj
3. The Land Reform Dy. Collector, Gopalganj
4. The Circle Officer, Vijaipur, Gopalganj \

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr. Raj Kishore Rai, GP-18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 24-08-2017

None appears for the petitioner. However, Mr. Raj
Kishore Rai, learned GP-18 appears on behalf of the respondents.

The present writ application has been filed for a
direction to the respondent authorities not to proceed in Encroachment
Case No. 19 of 2011-12 and with a further prayer for direction to
respondent no. 4, Circle Officer, Vijaipur for conducting the
measurement in pursuance to the direction of respondent no. 3, Land
Reforms Deputy Collector, Hathuwa with regard to the land
appertaining to Khata No. 20, Plot No. 130, measuring an area of 0.17
kathas, and Khata No. 62, Plot No. 551, measuring an area of 1.00
Katha situated in Mauza – Majhawalia Bakainia and besides this,



prayer has been made for not disturbing the right, title and possession of the petitioner over the land appertaining to Khata No. 20, Plot No. 130.

The case of the petitioner is that the father of the petitioner purchased a land appertaining to Khata No. 20, Plot No. 130 an area of 0.05 katha on 28.08.1995 through registered sale deed from one Om Prakash Gupta and constructed his residential house over land in question. In 2010-11 a road was proposed to be constructed adjacent to the residential house of the petitioner by Rural Development Department. In the meantime, one Pramod Kumar Jaiswal submitted an application upon which Encroachment Case No. 19 of 2011-12 was initiated whereas the father of Pramod Kumar Jaiswal, namely, Harish Chandra Jaiswal also submitted an application upon which Encroachment Case No. 09 of 2012 was initiated. In both the cases the encroachment was claimed on land appertaining to Khata No. 20, Plot No. 130. The Circle Officer, Vijaipur vide order dated 17.01.2013 issued direction for getting the encroachment removed, as contained in Annexure-1, after getting the land in question measured in presence of the land holder and local people, when it was found that the land is recorded in the name of the father of the petitioner, Rama Shankar Sah on which the house of the father of the petitioner is constructed but the father of the petitioner



has encroached upon adjacent eastern land appertaining to Thana No. 130, Khata No. 172, Plot No. 551, an area of ½ dhur which has been recorded in the revisional survey in the name of Zila Parishad.

The further case of the petitioner is that he was not satisfied with the measurement, hence, he made an application before respondent no. 3, Land Reforms Deputy Collector, Hathuwa, who directed respondent no. 4, Circle Officer, Vijaipur to get the land measured afresh but the same was not done and consequently, the father of the petitioner was directed to remove the encroachment vide Notice dated 15.04.2014, as contained in Annexure-3, from the land appertaining to Thana No. 130, Khata No. 172, Plot No. 551 by 18.04.2014. Hence, the present writ application.

A counter affidavit has been filed on behalf of respondent nos. 2 to 4. Mr. Raj Kishore Rai, learned GP-18 submits relying on the counter affidavit of respondent nos. 2 to 4 that one Pramod Kumar Jaiswal filed C.W.J.C. No. 12213 of 2013 before this Court for issuance of direction for implementation of the order dated 07.01.2013 passed in Encroachment Case No. 19 of 2011-12 and a Bench of this Court passed the order for implementation of the order dated 15.05.2013 passed in C.W.J.C. No. 12213 of 2013. Thereafter, on 31.05.2014 a fresh measurement was done by Anchal Amin in presence of the local Sarpanch, petitioner and the respondent and after



measurement being satisfied with the measurement the petitioner himself removed the encroachment from Plot No. 551 on 31.05.2014 itself and accordingly, compliance report was submitted in contempt application being M.J.C. No. 5799 of 2013 preferred by said Pramod Kumar Jaiswal and accordingly, being satisfied with the compliance of the order of this Court, the MJC application was disposed of vide order dated 26.09.2014 passed in M.J.C. No. 5799 of 2013, as contained in Annexure-A to the counter affidavit. Hence, the writ application has been filed with an infructuous prayer, without impleading Pramod Kumar Jaiswal as party-respondent, who had filed the earlier writ application, in pursuance to which final order passed in Encroachment Case No. 19 of 2011-12 was implemented.

In view of the above facts, the present writ application has become infructuous and accordingly, the same is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.09.2017
Transmission Date	NA

