

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1323 of 2015

IN

Civil Writ Jurisdiction Case No. 9746 of 2013

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1. Chandra Shekhar Singh S/O- Late Panna Singh, Resident of Village - Maheshwari, P.S .- Sona, District - Jamui

.... Petitioner/s

Versus

1. The State of Bihar, through Anjani Kumar Singh, Chief Secretary, Govt. of Bihar, Patna
2. Shashi Kant Tiwari, the Collector-Cum-District Magistrate, District - Jamui
3. Uday Shankar Mishra, the Executive Engineer, Division I, Dept. of REO, Jhajha, District - Jamui
4. Jaiprakash Paswan, the Executive Engineer, Division II, Dept. of REO, Jhajha, District - Jamui
5. Hriday Narayan Mahto, Assistant Engineer, Dept. of REO, Jhajha, Jamui, District - Jamui
6. Sri Nitish Kumar, Contractor, S/o- Late Anil Prasad Singh, R/O Village - Machiyar (Girish Talkies) Jamui, P.S. - Jamui, District – Jamui
7. Prasadi Singh, son of late Dharo Singh, resident of village-Maheshwari P.S. Sono, District Jamui
8. Mauleshwari Singh, son of late Dharo Singh.
9. Longeshwari Singh, son of late Dharo Singh.
10. Prasanna Kumar Singh son of late Dharo Singh, all resident of village Maheshwari P.S. Sono District Jamui

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajkumar Rajesh, Adv.
For the Respondent/s : Mr. K.C. Jha, A.C. to AAG 8
Mr. Girish Chandra, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-06-2017

Heard Mr. Rajkumar Rajesh learned counsel for the petitioner and learned counsel for the State.

This contempt application has been filed complaining of non compliance of the judgment and order of this court passed in C.W.J.C.No.9746 of 2013 whereby this Court taking note of the



grievance raised by the petitioner regarding the encroachment made on his property by the respondent State and its authorities in construction of a public road, had allowed the writ petition in the following terms.

“In the circumstances discussed hereinabove, there could be only one conclusion and that would be to direct the respondent authorities including the District Magistrate, Jamui, the Executive Engineer, Rural Engineering Works Division, Jamui, the Assistant Engineer and the other authorities connected with the construction of the road, to take all possible steps for removal of the same in so far as it intrudes over the plot No. 1572 of Khata No. 322 at Mauza Jhilia in the District of Jamui belonging to the petitioner and restore it to its original position until and unless they are able to arrive at an amicable settlement with the petitioner on such terms and conditions that the petitioner would agree or upon payment of compensation as per the official rate/value of land prevailing in the area.

Any such action to be taken by the respondent should be completed within three months from the date of receipt/production of a copy of this order.

The writ petition is allowed with the directions aforementioned.”

Since there was some typographical error in the order that a modification was prayed and was allowed by the order dated 13.11.2014 which also is present in the records of the contempt application.

No sooner after disposal of the writ petition that a review petition was filed at the instance of the private respondents herein alleging suppression of material fact by the petitioners herein and this



Court taking note of the prayer for review as well as the issues discussed in the review petition, disposed of the Civil Review No.436 of 2014 vide order present at Annexure-C to the show cause filed on behalf of the opposite party No.2 allowing the private respondents who were the review petitioners before this Court to approach the District Magistrate, Jamui by raising their claims with supporting documents and the District Magistrate, Jamui was directed to consider the grievance of these review petitioners as well, while disposing the claim of the writ petitioner in compliance of the order passed in C.W.J.C.No.9746 of 2013.

Since the compliance was delayed that the present contempt application was filed and when it was stated by learned AAG 14 that a Letters Patent Appeal had been filed by the State to question the order of the writ Court giving rise to L.P.A.No.869 of 2015. This Court taking note of the filing of the intra court appeal by the State posted the present contempt application after disposal of the Letters Patent Appeal. The Letters Patent Appeal was dismissed for non prosecution and when the office posted this matter for consideration.

The contempt application was taken up on 18.1.2017 and when this Court directed the District Magistrate, Jamui for ensuring compliance or face contempt. In between, the review petitioners approached this court for being heard in the matter as according to



them, the writ petitioners had not arraigned them in the contempt application, although in terms of the order passed on the review petition they would be necessary parties to the present contempt application. It is taking note of such circumstances that this Court directed the counsel for the petitioners to add the review petitioners and the matter is thereafter taken up today when Mr. K.C. Jha learned A.C. to AAG 8 invited the attention of this Court to the order passed by the District Magistrate in compliance of the order passed by this Court on the writ petition, a copy of which has been placed on record at Annexure-A to the supplementary show cause at running page 72 and in reference whereto it is stated that since there is a dispute as regarding title and ownership of the land in question that the District Magistrate, Jamui taking note of the pending civil suit in between the contenting parties has, while allowing a compensation of Rs. 17,13,600/-, issued directions that the payment for such compensation would be governed by the outcome of the civil suit arising from Partition Suit No.120 of 2014 filed at the instance of the review petitioners.

Before this Court, the two contesting parties represented through Mr. Rajkumar Rajesh appearing for the contempt petitioners and Mr. Nityanand Mishra appearing for the review petitioners have tried to espouse the cause of the respective parties to impress upon the



title and ownership over the land in question in reference to the supporting documents but in my opinion since the contest as to the title over the property in question is pending consideration before the court below in the pending civil suit who are best equipped to express opinion thereon, this court would refrain from expressing any opinion for the present and leave it open for discussion and contest before the court below for an adjudication upon the property dispute in between the parties. The parties would be at liberty to lead their respective evidence to establish their respective claim for title over the land in question before the court below but in the circumstances expressed no case for contempt is made out and the contempt application is accordingly disposed of.

Since the compensation amount has been earmarked to be paid to the rightful claimant, let the Collector, Jamui ensure that the amount instead of being deposited in the Savings Bank Account be deposited in term deposit so that the compensation amount would earn interest thereon which would be ultimately be payable to the rightful claimant.

Bibhash/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	08.07.2017
Transmission Date	NA

(Jyoti Saran, J)

