

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1516 of 2015

In
Civil Writ Jurisdiction Case No. 1341 of 2015

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1. Pramila Achal Wife of Late Pramod Naraian Anchal, Resident of Plot No. 734, Rajbanshi Nagar, P.S. - Shastri Nagar, District - Patna, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Building Construction department, Govt. of Bihar, Patna, Smt. Anshul Arya.
2. Smt. Anshuli Arya, Principal Secretary, Building Construction Department, Government of Bihar, Patna.
3. Mr. Shaligram Prasad, Under Secretary, Building Construction Department, Govt. of Bihar, Patna.
4. Mr. Ashok Kumar Suman, Joint Secretary, Building Construction Department, Govt. of Bihar, Patna.
5. Bihar State Building Construction Corporation Ltd. Patna through its Chairman.
6. Mr. Shakti Suman Negi, Chairman, Bihar State Building Construction Corporation Ltd. Patna.
7. Mr. Ganga Kumar, Managing Director, Bihar State Building Construction Corporation Ltd. Patna.
8. Superintendent Engineer, South Bihar Circle, Patna (name not known to the petitioner)
9. Executive Engineer, South Bihar Circle, Patna (name not known to the petitioner)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harsh Singh, Adv.

For the Respondent/s : Mr. Tej Bahadur Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

8 13-12-2017 Heard the parties.

Although according to Mr. Harsh Singh learned counsel for the petitioner, the original passage allowed to the petitioner under the agreement entered into between the parties has not been restored but he also does not dispute that the opposite parties have given the petitioner a clear passage for her ingress and egress.



A supplementary show cause has been filed by the Corporation as well as by the Building Construction Department and each of them have assured that until the agreement entered in between the parties is not annulled by a competent court of law, the petitioner would continue to use the alternative pathway so allowed to her. For the records paragraph 5 of the supplementary show cause filed on behalf of the opposite party No.7, the Managing Director, Bihar State Building Construction Corporation Ltd., reads under:

“5. That the petitioner upon demolishing the obstruction/wall created in front of her gate (opening in the premises of the Bihar State Building Construction Corporation Limited) has been using the pathway of the corporation in its premises for ingress and egress to her premises. The opposite party corporation assures that the petitioner would be allowed to use the pathway of the Bihar State Building Construction Corporation Ltd. so long as the licence entered with the petitioner is not annulled by any competent court”

It is acknowledging the position that even the State through its Principal Secretary, Building Construction Department has accepted the position by filing a supplementary show cause which also at paragraph 5 recognizes the assurance given by the Corporation of allowing the petitioner the use of the pathway so long the agreement entered into between the parties is not annulled by a competent court.



In the circumstances discussed and unless an occasion arises where the State through its Building Construction Department or the Bihar State Building Construction Corporation creates any hindrance to the easementary right as available to the petitioner as of now, even if, it is not strictly in tune with the rights so granted, this Court is not persuaded to proceed against the opposite parties in contempt for the present. Taking note of the assurance given by the State through the Principal Secretary, Building Construction Department and the Bihar State Building Construction Corporation through its Managing Director of not creating obstruction to the easementary rights enjoyed by the petitioner until the agreement continues, this Court would expect the State as well as the Corporation to abide by their undertaking before this Court.

With the observations above, the contempt application is disposed of.

(Jyoti Saran, J)

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