

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10133 of 2014

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Ramanand Paswan, Son of Late Jaggan Paswan, Resident of Village -
Srichandpur, Post office and Police Station - Harnaut, Pin Code - 803110
District - Nalanda

.... Petitioner/s

Versus

1. The State of Bihar, through the Collector of the District, Nalanda at Biharsharif
2. Deputy Collector Land Reforms, Nalanda at Biharsharif
3. Circle Officer, Harnaut Circle, Harnaut, Nalanda
4. Circle Inspector, Harnaut, Circle, Harnaut, Nalanda
5. Officer Incharge, Harnaut Police Station, Nalanda
6. Kapildeo Pavan S.I. Harnaut Police Station, District - Nalanda
7. Kameshwar Yadav, A.S.I.- I.O.Harnaut, P.S. Nalanda
8. Ranjeet Dhanuk
9. Raju Dhanuk
10. Mukesh Dhanuk All sons of Late Kishun Dhanuk
11. Shankar Mishtri, Son of Late Daso Mistri
12. Rakesh Kumar, Son of Shankar Mistri
13. Amit Kumar, Son of Shankar Mistri
14. Pramod Prasad, Son of late Bal Gobind Prasad All resident of Village -
Srichandpur, Post office and Police Station - Harnaut, Pin Code -
803110 District - Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar

For the Respondent/s : Mr. GA-1 Shyam Kishore Sharma

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 18-07-2017

Heard learned counsel for the petitioner and

AC to GA-10.

The present writ application has been filed
for a direction to respondent authorities to restore the possession
of the petitioner over the land appertaining to Plot No. 95, Halka
No. 5 Tauzi No. 8507, Thana No. 219, Khata No. 62, measuring



an area of 0.3 decimals and Plot No. 113, Tauzi No. 8509, Khata No. 4, measuring an area of 4 kattha 3 dhurs which has been encroached upon by respondent nos. 8 to 14.

It is submitted by learned counsel for the petitioner that part of the land in question was purchased by the wife of the petitioner Amirki Devi in the year 1980 at Mauza Srichandpur, P.S. Harnaut in the district of Nalanda. Thereafter, the petitioner purchased a piece of land through auction purchase measuring 3 decimals in Khata No. 62, Plot No. 95 and is in possession of the same, but subsequently, it has been encroached upon by respondent nos. 8 to 14 in collusion with respondent nos. 6 and 7.

It is submitted by learned counsel for the respondent State that possession of land of the petitioner cannot be restored without deciding the title of the land in question, which requires leading of evidence and that can be done only by filing a proper suit before the Court of competent jurisdiction.

In view of the aforesaid discussions, it is an admitted position that the land in question is the private land of the petitioner, hence, the issue cannot be decided under the Bihar Public Land Encroachment Act.

Having heard learned counsels for the parties, this



Court finds it necessary to deliberate upon the issue, whether factual issue and the disputed question of facts can be looked into, while exercising discretionary jurisdiction under Article 226 of the Constitution of India.

When this Court confronted learned counsel for the petitioner whether the discretionary jurisdiction under Article 226 of the Constitution can be exercised where such disputed question of facts are involved, learned counsel for the petitioner sought for permission to withdraw this writ application to seek remedy before appropriate forum.

Accordingly, this writ application is dismissed as withdrawn.

(Dinesh Kumar Singh, J)

DKS/-Anil/

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