

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16397 of 2015

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1. Sanjay Kumar Yadav S/o Sri Devendra Yadav
 2. Mohan Yadav, S/o Late Jag Yadav
 3. Parma Yadav S/o Late Jag Yadav All Resident of Village-
Bariyarpur, P.S.- Yogapatti, District- West Champaran. Petitioners.
- Versus
1. The State of Bihar through the Collector-cum-District Magistrate,
Bettiah, West Champaran.
 2. The Collector-cum-District Magistrate, Bettiah, West Champaran.
 3. The Additional Collector, Bettiah, West Champaran.
 4. The Deputy Collector, Land Reforms, Bettiah, District- West
Champaran.
 5. The Circle Officer, Yogapatti Block, Yogapatti, District- West
Champaran.
 6. The Head Master, Nav Srijit Govt. Primary School, Bariyarpur,
Block- Yogapatti, District- West Champaran. Respondents.
- =====

Appearance :

For the Petitioners : Mr. Sanjeev Kumar, Adv.

For the Respondents: Mr. Suresh Kumar, AC to GP 1

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-01-2017

I.A. No. 9301 of 2016

This Interlocutory Application has been filed for amendment of the writ by introduction of relief mentioned in paragraph no. 1.

It is contended that though this writ petition was filed for restraining the respondents from constructing school building and recommendation of the Circle Officer for settlement of the part of the public land abutting road but the same could not be inadvertently challenged in the writ petition. He now wants to assail



the same.

Accordingly, I.A. No. 9301 of 2016 is allowed.

Petitioner is permitted to assail the same.

CWJC No. 16397 of 2015

The grievance of the petitioner is that on the part of the public land road situated in front of the petitioner's house school building is going to be constructed which would obviously impede the ingress of the petitioner.

Supplementary counter affidavit has been filed on behalf of the State. A notification has been brought on record showing that in certain situation the public land can be utilized.

I fail to understand how that notification would cover the present case.

Learned counsel for the petitioner places reliance upon a Division Bench Judgment of this Court rendered in **2004(4) in the case of Chandan Kumar Singh vs. The State of Bihar & Ors.** holding that the public roads and highways are meant for passages only and not other purpose and the open urban planning spaces are reserved for their conforming uses and that cannot be utilized by establishing school etc. The relevant passages from the aforesaid decision are extracted as under:-

“16. In the net result there can be no doubt that public roads and highways are meant for passage only and no other purpose. In interpretation, the situation



cannot be interpreted in favour of those who may have influence and authority to extract a licence for the occupation of a public road. If a poor man cannot have any right to squat on any particular spot or site of a public road or highway to earn his livelihood, no other person may have a licence for the occupation of the road whatever be its purpose.

17. At this juncture, the Court needs to remind every local administration in the State of Bihar that in urban planning spaces are reserved for their conforming uses. Open spaces are obliged to be reserved in the excellence of urban planning for roads and parks, and thus, such is their use. If space is reserved in a lay out plan or a park, a school cannot be established in it and it cannot be justified that it is for the benefit of the public or that its dislocation would cause inconvenience to some people of the locality. The same concept applies to the area which has been dedicated in its conforming use as a road. Portions of a highway or a public road are to be left entirely free and cannot be used for any other purpose except passage. The Supreme Court has already declared that a statue of Mahatma Gandhi, a library or a piaoo cannot come on the road. No one has any right to any particular spot or site on the road. The Supreme Court has also held that a school cannot be put inside a park and that this sort of social and community service cannot be made a subterfuge to occupy public places like parks and roads. Thus community services, and social services cannot be had from spaces reserved for roads and parks, whether it be vocational training, classes for stitching and tailoring, Pulse Polio and family planning programmes, or a blood bank. Parks occupying spaces of roads cannot be established. Schools, libraries, vocational training centres and social service cannot be inside parks. Statues of



national leaders cannot be made or any such excuses resorted to as a camouflage to occupy side lands of public roads and highways against their conforming uses. Otherwise this would become the hegemony of bad politics, misplaced power of persons with means both inside and outside politics, resulting in a negation of urban planning. This is not social service, nor community service.”

However, at this juncture, it is contended on behalf of the State that no final decision has been taken as yet, therefore, it cannot be assumed that some wrong has been done.

In above view of the matter, this Court would be inclined to dispose of the matter with a direction to the authorities that they would be required to take a decision in this regard. That decision must be taken after considering the aforesaid decision of Division Bench and that could be immediately communicated to the petitioner. Since petitioner claims that his house would be obstructed, such decision would only be taken after granting reasonable opportunity to the petitioner.

Accordingly, this writ petition stands disposed of.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.05.2017
Transmission Date	NA

