

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16246 of 2016

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Ajit Kumar Saha, Son of Late Bishwamohan Sah, Resident of village &
P.O.- Damgara, P.S. Dhamdaha, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner Purnea Division, Purnea.
 2. The District Magistrate Purnea District- Purnea.
 3. The Superintendent of Police Purnea, District- Purnea.
 4. The Deputy Collector Land Reforms Dhamdaha District- Purnea. null
 5. The Circle Officer, Dhamdaha Block, District- Purnea.
 6. The Officer-in-Charge Dhamdaha Police Station District- Purnea.
 7. Surpanch, Gram Kacharahi Raj Damgara P.S. Dhamdaha, District- Purnea.
 8. Naresh Poddar, Son of Late Gopal Poddar,
 9. Munna Poddar, Son of Late Gopal Poddar,
 10. Mahesh Poddar, Son of Late Gopal Poddar,
 11. Ganesh Poddar, Son of Late Gopal Poddar,
 12. Shambhu Poddar, Son of Late Lakhsmi Poddar,
 13. Narayan Poddar, Son of Late Lakhsmi Poddar,
 14. Shiv Shankar Poddar @ Lalo Poddar, Son of Late Rameshwar Poddar,
 15. Gauri Shankar Poddar, Son of Late Rameshwar Poddar,
 16. Parmanand Poddar, Son of Late Gopal Poddar,
 17. Ashok Poddar, Son of Late Bhantu Poddar,
 18. Nageshwar Sah, Son of Late Mahadeo Sah,
 19. Suresh Sah, Son of Late Mahadeo Sah,
 20. Israil Mian, Son of Late Budhu Mian,
 21. Amir Mian, Son of Late Budhu Mian,
- Respondent no. 8 to 21 are resident of village+ P.O.+ Gram Kachahari
Damgaram, P.S. Dhamdaha, District- Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D. K. Sinha, Sr. Counsel
For the State : Mr. Raj Kishore Roy-GP18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER



2 04-07-2017 Heard Mr. D. K. Sinha, learned Sr. counsel appearing on behalf of the petitioner and Mr. Raj Kishore Roy, learned GP-18, appearing on behalf of the respondent nos. 1 to 6.

The present writ application has been filed for a direction to Respondent Nos. 1 to 6 to act in pursuance to the measurement report, dated 18/06/2015 submitted by the Anchal Amin, as contained in Annexure-2, which reflects that the land pertaining to Plot No.757, 954, measuring area 7 acres and 36 decimals, situated in Village & P.O. & Gram Kachhari, damgara, P.S. & Circle –Dhamdaha, in the District of Purnea, has been encroached by respondent nos. 8 to 21, and for a direction to remove the encroachment so made by Respondent Nos. 8 to 21 over the 31 decimals of the land of the petitioner.

Mr. D. K. Sinha, learned Sr. Counsel for the petitioner appreciating the fact, that the dispute relates to private land between the petitioner and respondent nos. 8 to 21, has confined his prayer for disposal of the writ petition with a direction to Respondent No.2, the District Magistrate, Purnea as well as Respondent No.3, the Superintendent of Police, Purnea to dispose of the representations of the petitioner, dated 20/05/2016, as contained in Annexures-4 and 4/A.



Having heard learned counsels for the parties, this Court feels 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. There is no rule that the High Court cannot try the issue of facts in a writ application, but in such cases where relief has been prayed for on the basis of disputed question of facts, which cannot be determined without leading of evidence, the Court should ordinarily relegate the parties aggrieved to agitate the issue before the Civil Court.

It is submitted by learned G.P.18 that the dispute is between the petitioner vis-à-vis respondent nos. 8 to 21 with regard to their raiyati land, hence, the writ application is not maintainable. The issue is based on disputed question of facts which cannot be gone into in the present writ proceeding.

Considering the rival submissions of the parties and in view of the confined prayer of the petitioner, it is expected from Respondent No.2, the District Magistrate, Purnea, to dispose of the representation of the petitioner, dated 20/05/2016, as contained in Annexures-4 and 4/A, within a period of six weeks from the date of receipt of a copy of this order.



Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-Anil/

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