

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.24045 of 2013

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1. Ram Babu Rai Son of Late Ramchandra Rai, resident of village - Baruraj, Tole-Chaukia, P.O. & P.S. Baruraj, District – Muzaffarpur.
 2. Ram Pukar Rai Son of Sri Jai Mangal Rai, resident of village - Baruraj, Tole - Chaukia, P.O. & P.S. Baruraj, District – Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Muzaffarpur, District - Muzaffarpur
 2. The Circle Officer, Motipur Anchal, District - Muzaffarpur
 3. Ram Swarath Prasad Yadav Son of Late Raghunath Rai,
 4. Ram Jagat Prasad Yadav Son of Late Raghunath Rai,
 5. Achhe Lal Rai Son of Late Baijnath Rai,
 6. Ramesh Rai Son of Late Baijnath Rai,
 7. Mahesh Rai Son of Late Baijnath Rai,
 8. Awadh Kishore Rai Son of Late Baijnath Rai
 9. Umesh Rai Son of Late Baijnath Rai
 10. Sri Kant Rai Son of Late Baijnath Rai
 11. Jai Kant Rai Son of Late Baijnath Rai
 12. Mostt. Raj Kali Devi Wife of Late Babu Lal Rai,
 13. Chandeshwar Rai
 14. Arbind Rai
- All residents of village - Baruraj, Tole - Thikaha (Now Chaukiya), P.O. and P.S. Baruraj, District – Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar –Mangalam, Adv.

For the Respondent/s : Smt. Bela Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 09-01-2018

This application has been filed to set aside the order dated 22nd April 2013 passed by the learned Munsif, West Muzaffarpur in Title Suit No. 14 of 2012 whereby and whereunder the petition filed by these petitioners under Order-I Rule 10 of Code of Civil Procedure was rejected.

2. Heard learned counsels for the petitioners as well as



the respondents.

3. The respondent nos. 3 to 14 filed Title Suit No. 14 of 2012 against the respondent nos. 1 and 2 for declaration of their title and confirmation of possession over the suit land mentioned in schedule-I of the plaint. They further sought relief for permanent injunction restraining the defendants State of Bihar from causing any interference in their peaceful possession and further to hold and declare that notice issued under section 3 of the Bihar Public Land Encroachment Act, 1956 is illegal and without jurisdiction. The petitioners before this Court claiming their interest over the suit land had filed an application under Order 1 Rule 10 of Code of Civil Procedure for impleading them as party to the suit. Their case is that the suit land is a public land and the same is used by them as *Rasta* and so they are necessary party to the suit. The learned Court below after hearing both sides, rejected the petition holding that the plaintiffs are master of their own case. In this regard, the learned counsel for the contesting respondent cited a Ruling reported in 2006 (4) PLJR 65 (Ram Lochan Sharan v. Balmukund Yadav). It is not in dispute that they have claimed title and possession against the State of Bihar. They have impleaded the State of Bihar and the Circle Officer as party to the suit. The plaintiffs have not sought any relief against the present petitioners. The petitioners on the other hand claim interest in the suit



property. They have not claimed any title over the same except that they were using the said land as public road. The respondent no. 2 has already initiated an encroachment proceeding against the plaintiff vide Encroachment Case No. 3 of 2010. It is well settled that the plaintiff is master of his own litigation. If the petitioners want to assert and establish their right, they have liberty to file an appropriate suit for their relief. In this view of the matter, the petitioners are not necessary party to the suit. The Court below considering these facts has rightly rejected the petition.

4. In view of above facts, this application is devoid of merit and the same is accordingly dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.01.2018
Transmission Date	

