

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8600 of 2011

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1. Rajkumar Prasad S/O Late Rohan Mahto R/O Mohalla- Meharper, P.S.-Laheri, Town- Biharsharif, P.O.- Ranabigha, District- Nalanda
 2. Ranjit Kumar S/O Late Rohan Mahto R/O Mohalla- Meharper, P.S.-Laheri, Town- Biharsharif, P.O.- Ranabigha, District- Nalanda

.... Petitioners

Versus

1. Ramkeshwar Mahto S/O Late Etwari Mahto R/O Mohalla- Meharper, P.S.- Laheri, Town- Biharsharif, P.O.- Ranabigha, District- Nalanda
2. Rampravesh Prasad S/O Ramkeshwar Mahto R/O Mohalla- Meharper, P.S.- Laheri, Town- Biharsharif, P.O.- Ranabigha, District- Nalanda
3. Awadhesh Prasad S/O Ramkeshwar Mahto R/O Mohalla- Meharper, P.S.-Laheri, Town- Biharsharif, P.O.- Ranabigha, District- Nalanda
4. The State of Bihar Through The Collector, Nalanda, District - Nalanda

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Anil Chandra, Advocate

For the Respondent/s : Mr. Akhauri K.K. Sahay, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 27-06-2018

Petitioners before this court are plaintiff of Title Suit No.30 of 2010 pending in the court of Munsif, Nalanda at Biharsharif. They have filed the aforesaid suit for declaration of their easementary right over the disputed land and further to declare that the defendants have no right to make any construction over the suit land. The petitioners filed injunction petition for restraining the defendants from making any construction which was allowed on 25.09.2010. The defendants challenged the said order by filing Miscellaneous Appeal No.18 of 2010 which was heard by District Judge. The learned District Judge as



per order dated 11.01.2011 set aside the order of learned Munsif. The petitioners have filed the present writ for quashing the order of learned District Judge.

2. Heard learned counsels for the petitioners and the respondents.

3. The petitioners have their residential house and shop premises over the land of plot no. 8. There is a National Highway running from Patna to Ranchi towards west of petitioners' land. The defendants have their land under plot no.10. According to the defendants, the total area of plot no.10 according to khatian is 3 decimals against its actual area measuring 4 decimals. The map of said plot has been prepared for 4 decimals and on the strength of area as per map, the respondents claim title over the land. According to them, they have their shop premises over the said land since several years. The learned District Judge while allowing the appeal of the respondents has observed that the plaintiffs-petitioners have not pleaded title of the defendants-appellants over the suit property in the plaint and so the plaintiffs cannot claim right of easement over the land. The learned Munsif allowed the injunction petition without considering this fact. The petitioners before this court have impleaded the State of Bihar as party to this writ as according to the petitioners the land belongs to the State of Bihar. It is not disputed that some of



the portions of plot no.10 lies in between the public road and plot no.8 which appears to have caused inconvenience to the petitioners. The defendants deny any encroachment over any portion of public road. The learned District Judge considering the nature of dispute as regards their claim over the disputed land has rightly allowed the appeal. The respondents claim the land of plot no.10 as their khatiani land.

4. In view of above facts, I do not find any merit in the present application and the same is accordingly dismissed. The court below is, however, directed to expedite the trial.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.07.2018
Transmission Date	

