

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2210 of 2018

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Sudhir Kumar Singh, S/o- Late Raghu Nath Singh, R/o- Village- Bilandpur,
Block+Circle- Raja Pakar, P.S.- Mahua, Dist- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Tirhut Division, Muzaffarpur.
2. The District Magistrate, Vaishali.
3. The Superintendent of Police, Vaishali.
4. Dinesh Prasad Singh, S/o- Late Mathura Singh, R/o- Village- Bilandpur, P.S.- Mahua, Dist- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh
For the Respondent/s : Mr. S.C. Yadav- Gp15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 26-06-2018

Heard Mr. Anil Prasad Singh, learned counsel for the petitioner and Mrs. Sangha Mitra Ghosh, learned AC to GP-15 for the Respondent-State.

Though, the present writ application was registered on 03.02.2018, but till date no counter affidavit has been filed, hence, in view of nature of order this Court intends to pass, this Court is not inclined either to adjourn the matter any further or to issue notice to private Respondent No.4.

The present writ application has been filed for a direction to Respondent No.2, the District Magistrate, Vaishali to get demolished the obstruction made over the land appertaining to R.S. Plot No. 566, 567 and 570, situated in Village Bilandpur, Circle Raja Pakar, District Vaishali, by private Respondent no.4.



It is submitted by learned counsel for the petitioner that the petitioner and private Respondent No.4 are the heirs of common ancestors and private passage was created for having access to the main door, but the same has been blocked by private Respondent No.4 due to some dispute with regard to political issue, as a result of which, right of easement of the petitioner has substantially been affected.

Learned AC to G.P.-15 submits that admittedly the blockage is not on the public land, hence remedy available to the petitioner is to file appropriate suit before the appropriate forum.

Having heard learned counsel for the parties, the case of the petitioner is that the passage in question has been constructed with the consent of the petitioner and his agnates and it has been blocked by one of the agnates of the petitioner.

In the considered opinion of this Court, while exercising jurisdiction under Article 226 of the Constitution of India, this Court cannot examine the question of title and possession of the petitioner and Private Respondent No.4. Moreover, the issue involved in the present case requires leading of evidence, which can better be done by the competent Civil Court in an appropriate suit. A useful reference in this regard can be made to the judgment of Apex



Court in the case of State of Rajasthan Vs. Bhawani Singh & Ors,
AIR 1992 SC 1018.

This writ application is disposed of with a liberty to the
petitioner to avail the appropriate remedy if so advised.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

