

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1213 of 2014

IN

Civil Writ Jurisdiction Case No. 20981 of 2013

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Dr. Rajendra Kumar Son of late Chandeshwar Sharma resident of 43, Ganga Tower, Mohalla- Mainpura, Police Station- Patliputra, District Patna

.... Appellant

Versus

1. The State of Bihar through Secretary, Urban Development Department, Govt. of Bihar, Patna
2. The Senior Superintendent of Police, Patna
3. The District Magistrate, Patna
4. The Officer-in-Charge, Kotwali Police Station, Patna
5. Patna Municipal Corporation through its Commissioner, Maurya Lok Complex, Patna
6. The Municipal Commissioner, Patna Municipal Corporation, Patna
7. The Vigilance Officer, Patna Municipal Corporation, Patna
8. Rama Shankar Singh, Director, M/s Ganapati Developers Private Limited, Patna
9. Abu Dojana, Managing Director, Meridian Construction Private Limited, 305, A Block, Sukriti Complex, S.P. Verma Road, Patna
10. Kaushalya Estate through Suraj Bhan Singh, Dak Bangalow Chouraha, Patna
11. Sri Ganapati Property Developers Ltd, 1st Floor B Block, Pandey Plaza, Exhibition Road, Patna-01 through its Director Raghav Pandey.

.... Respondents

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Appearance :

For the Appellant : Mr. Arun Kumar, Advocate
For respondent nos.5 to 7 : Mr. Yashraj Bardhan, Advocate
For respondent no.10 : Mr. Raj Kumar, Advocate
For respondent no.11 : Mr. Sanjeev Kumar Singh, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

And

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date: 14-09-2018

Heard learned counsel for the parties.

Order passed by the learned Single Judge dated 20.06.2014, passed in C.W.J.C.No.20981 of 2013 is under challenge.

It is submitted that the land of the appellant writ petitioner has been encroached by respondents no.8 to 10 in the process of construction of multistoried building. Leaned Single Judge has observed that the issue of encroachment of land by the aforesaid respondents is purely a civil dispute and the petitioner, in



place of seeking remedy before the Patna Municipal Corporation (herein after referred to as 'the Corporation'), should take recourse to a civil court of competent jurisdiction.

At the time of hearing of the appeal, learned counsel for the appellant has tried to impress the Court by submitting that the Corporation has not disposed of appellant's case.

In our view, such matter cannot be decided by the Corporation as the issue involved in the matter is purely a civil dispute involving right, title and possession and for that purpose it has rightly been observed by the learned Single Judge that such disputed issues of fact cannot be entered into in a writ application.

That apart, it is also informed by the learned counsel appearing for the Corporation and admitted by the appellant writ petitioner that the Corporation has already passed order dated 06.08.2014, in Vigilance Case No. 200A/2013 (Annexure 3 to the supplementary affidavit filed on behalf of the appellant) declaring the construction made by respondents to be illegal and the respondents have preferred an appeal before the Tribunal which is pending.

In view of the aforesaid position, we do not find any reason warranting interference with the order of learned Single Judge.

The appeal is accordingly dismissed.

(Dr. Ravi Ranjan, J)

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.09.2018
Transmission Date	NA

