

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2230 of 2019

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1. Ram Kailash Ram S/o Jagdev Ram Resident of Village- Shahpur, Undi, P.S.- Patory, District- Samastipur.
 2. Maghiya Devi Wife of Ram Vilash Ram Resident of Village- Shahpur, Undi, P.S.- Patory, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Old Secretariat, Patna, Bihar.
2. The District Magistrate, Samastipur, Bihar.
3. The Additional Collector Samastipur, Bihar
4. The Superintendent of Police Samastipur, Bihar.
5. The Sub Divisional Police Officer Patory, Samastipur.
6. The Sub Divisional Magistrate, Patory, Samastipur.
7. The Block Development Officer, Patory, Samastipur.
8. The Circle Officer, Patory, Samastipur.
9. The Officer-in- Charge, P.S. Patory, Patory, Samastipur.
10. Smt. Sita Devi W/o Mandesh Kumar Resident of Village- Bhaua, P.S.- Patory, District- Samastipur.
11. Mahendra Narayan Singh S/o- Yadunandan Prasad Singh Resident of Village- Nayannagar, P.S. Hasanpur, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhishek Kumar
For the Respondent/s	:	Md. N.H Khan, (SC-1)
		Ms. Babita Kumari, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 07-02-2019 Heard learned counsel for the parties.

It appears from the pleadings in the writ application and submissions advanced on behalf of the petitioners that a Title Suit No. 110 of 2016 filed by them is pending, seeking declaration of their right and title in respect of the disputed land. It also appears that the private respondent no. 11 has filed a case for cancellation of *jamabandi* in favour of the contesting



respondent, giving rise to case no. 01 of 2017. The *jamabandi* in favour of the respondent no. 10 is said to have been cancelled. In the Title Suit, the petitioners have filed an injunction petition, which has been dismissed by an order dated 25.07.2017 passed by learned court below. A miscellaneous appeal against the order rejecting the grant of injunction, has been filed by the petitioners before the learned District and Sessions Judge, Samastipur being Misc. Appeal No. 24 of 2017.

The grievance of the petitioners is that in the aftermath of the order passed by the court below rejecting the petitioner's application for injunction, the contesting respondents approached the Additional Collector of the district, who has allowed for boundary, to be raised on the disputed land.

Learned counsel for the petitioners submits that the Additional Collector did not have any authority to allow the contesting respondents to raise any boundary with the help of the local police, only on the ground of rejection of the petitioners' application for injunction.

There is no material on record to hold conclusively that the petitioners are in possession over the land, in question. The injunction petition having been dismissed, the Court in a proceeding under Article 226 of the Constitution of India,



cannot issue a direction now, undoing something what has been done at the instance of the Additional Collector, as alleged. The petitioners shall be at liberty to pursue their case before the court below. It is, however, made clear that the order of the Additional Collector dated 27.11.2018, in compliance of which, the boundary has been allowed to be raised as asserted, shall not prejudice the petitioners' case in any manner before the court below.

This application stands disposed of.

(Chakradhari Sharan Singh, J)

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