

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5251 of 2017

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Raja Lal Rai S/o Late Balode Rai, Resident of Village- Hakma, P.O.- Tarwa,
P.S.- Bheldi, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar
2. District Magistrate, Saran at Chapra.
3. Superintendent of Police, Saran at Chapra.
4. Circle Officer, Amanour, P.O. and P.S.- Amanour, District- Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bipin Bihari Singh
For the Respondent/s : Mr.Md.Khurshid Alam-Aag12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 22-04-2019 Heard learned counsel for the petitioner and the

counsel appearing on behalf of the State.

In the counter affidavit the following stand has been
taken by the respondents in para 6 to 11 which is quoted below:-

“6. That first of all it is relevant to mention here that an application u/s- 133 of Cr.P.C. was filed by the Sachindra Kr. Rai who is the son of the writ petitioner against Ram Prasad Rai and 07 other persons in the Court of S.D.O Marhaura, Saran on 15.02.2015 for the same relief which has been sought in this writ application. This proceeding is pending in the Court of S.D.O. Marhaura, Saran. During the pendency of the proceeding u/s- 133 of the Cr.P.C. present writ has been filed by the father of the petitioner of the proceeding pending u/s-133 of the Cr.P.C. in collusion of each other.

7. That because the matter is



pending/sub-judice before the competent court i.e. S.D.O Marhaura, Saran for removal of the obstruction done by Ram Prasad Rai and others for which there is specific provision in the law/Cr.P.C.. Therefore, there is no relevancy to initiate any parallel proceeding on the basis of the same facts for the same relief.

8. That it is also relevant to mention here that land in question was measured by the Anchal Amin and after due measurement the Anchal Amin reported that road has been encroached by Ram Prasad Rai by illegal construction measuring 43 Kari x 15 kari (area 3 ¼ dhurs). Apart from this a temple has also been constructed measuring 32 kari x 18 kari.

9. That all the above facts/report has also been sent to the Sub-Divisional Public Grievances Redressal Officer-S.D.O Marhaura vide the letter no.-535 dtd 05.09.2016 by the circle officer, Amnor, Saran.

10. That it is also pertinent to mention here that the answering respondent is ready to abide all the order/orders/direction/directions which is made in the regard.

11. That considering all the facts stated in above noted paragraph and documents annexed herewith it is crystal clear that for the removal of the construction/encroachment earlier a proceeding u/s-133 of the Cr.P.C. was initiated on the basis of the application of the son of this writ petitioner namely Sacchidra Kr. Rai which is pending for its final conclusion. Therefore, there is no relevancy of the writ application as framed and filed and the same is fit to be dismissed having no merit.

Considering the aforesaid the writ petition is disposed of with direction to the respondents to take issue of



encroachment over public land to its logical end within a period of four months from the date of receipt/production of a copy of this order.

(Anil Kumar Upadhyay, J)

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