

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.204 of 2019

Arising Out of PS. Case No.- Year- Thana- District-

Dr. Birendra Prasad Roy @ Birendra Pd. Roy, son of Late C.P. Roy, Resident of 144, Patliputra Colony, P.S. -Patliputra, Town and Distt.-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna
2. The Principal Secretary, Department of Home, Government of Bihar, Patna. Patna
3. The Director General-cum-Inspector General of Police, Govt. of Bihar, Patna.
4. The District Magistrate, Patna.
5. The Circle Officer, Patna Sadar, Patna.
6. The Senior Superintendent of Police, Patna
7. The Superintendent of Police (City), Patna.
8. The Officer In-charge, Shastri Nagar Police Station, Patna.
9. Sri Upendra Prasad, son of not Known, posted as Dy. S.P. in the office of I.G., Patna Zone, Patna, Resident of Plot No.592, Mauza-Dhakkanpura, P.S-Shastrinagar, Distt.-Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Md. Nasrul Huda Khan, SC-1

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 31-01-2019

Heard learned counsel for the petitioner and
learned counsel for the State.

2. In the instant writ petition, the petitioner has prayed for directing the respondents to remove the encroachments made by respondent no.9 over the private land of the petitioner bearing Plot No.591, Tauzi No.870, Khata No.301, admeasuring 2 kathas.

3. Learned counsel for the petitioner submitted that by abuse of his power the respondent no.9 has forcibly



grabbed the private land of the petitioner and got a road constructed over it. He contended that the encroachment over his land was made on 25.09.2018 and since then the petitioner is running from pillar to post, but his grievances have not been redressed by the official respondents.

4. On the other hand, learned counsel for the State has raised a preliminary objection that the writ petition is not maintainable, as the petitioner is claiming his right over a piece of plot, which is admittedly in possession of respondent no.9. The dispute is between two private persons with regard to immovable property, which can only be decided in a regular suit.

5. I have heard learned counsel for the parties.

6. I find substance in the submission of the learned counsel for the State.

7. It is well settled position in law that the remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of statutory authority is alleged. In the instant case, admittedly the dispute relates to property right between two private parties, such dispute can be adjudicated only in a regular suit and not under Article 226 of the Constitution of India.



8. In that view of the matter, I am not inclined to entertain the writ petition. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2019
Transmission Date	NA

