

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7572 of 2018

Ashok Sinha Son of Late Chandeshwari Prasad, resident of Mohalla-Khairabad Mahalpar, Ward No. 33, P.O. and PS.- Biharsharif, District-Nalanda Bihar.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Principal Secretary, Urban Development Department, Bihar, Patna.
4. The District Magistrate, Nalanda at Biharsharif.
5. The Sub-Divisional officer, Biharsharif, District Nalanda.
6. The Circle Officer, Biharsharif, District- Nalanda.
7. The Superintendent of Police, Nalanda at Biharsharif.
8. The Officer-in-Charge, Biharsharif Police Station, District- Nalanda.
9. The Municipal Corporation, Biharsharif, Nalanda through its City Commissioner.
10. The City Commissioner, Municipal Corporation, Biharsharif, Nalanda.
11. The Executive Officer, Municipal Corporation, Biharsharif, Nalanda.
12. Indradeo Yadav, Son of name not known, resident of Mohalla- Khairabad Mahalpar, Ward No. 33, P.O. and P.S.- Biharsharif, District- Nalanda Bihar.

... .. Respondents

Appearance :

For the Petitioner	:	Mr.Anil Kumar Mr.Naresh Prasad
For the Respondent State:		Mr. Syed Hussain Majeed, AC to SC-6
For the Corporation	:	Mr. Gyan Prakash Ojha, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

6 29-11-2019 The dispute in the present writ application relates to laying a concrete road over a piece of land, which, according to the petitioner, belongs to him. It was his case that he had constructed his house after leaving a passage of 5 feet width for his personal use. It appears that on the premise that the piece of land, adjacent to the petitioner's residence, was being used for



several years by the local residents as passage, PCC road is being laid there.

The matter had earlier come before this Court at the instance of the petitioner by filing a writ application, giving rise to C.W.J.C. No. 25545 of 2013, which was disposed of by an order dated 28.04.2016 with a direction to the respondent Town Commissioner, Municipal Corporation, Biharsharif, Nalanda, to expeditiously dispose of the petitioner's representation in this regard.

Alleging non compliance of the said order, the petitioner had approached this Court by filing contempt application, giving rise to M.J.C. No. 969 of 2017. During the pendency of the said contempt application, the Town Commissioner, Biharsharif, passed an order dated 10.05.2017, which is impugned in the present writ application.

The Town Commissioner has recorded specific finding that the petitioner's plea that he had set aside 5 feet wide passage adjacent to his residential house was wrong. He had left a passage of only 3 feet width and one Indradeo Yadav had also contributed his land for the purpose of passage and, therefore, the land, which was being used for passage, was owned by the petitioner and said Indradeo Yadav, both. On request made by



the local residents, the Municipal Corporation has laid the PCC road.

A counter affidavit has been filed on behalf of the respondents, to which a reply has also been filed on behalf of the petitioner. It is evident from the impugned order dated 10.05.2017 that there is a disputed question of fact as to the width of the land, which was set aside by the petitioner for passage, adjacent to his residential house. This Court, on the basis of affidavits, cannot adjudicate upon such dispute.

This writ application is accordingly disposed of with an observation that the petitioner may get the dispute resolved by approaching appropriate forum/filing a suit before a competent court of civil jurisdiction.

(Chakradhari Sharan Singh, J)

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