

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12351 of 2016

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Ayodhya Prasad, son of Late Viraji Sharan Resident of Mohalla- Bishar Talab,
Alamgirpur, P.S. Civil Line, Gaya, District- Gaya.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
2. The District Magistrate, Gaya.
3. The Sub Divisional Magistrate, Sadar Gaya.
4. The Circle Officer, Bodh Gaya, Gaya.
5. The Nagar Panchayat Bodh Gaya, through its Executive Officer, Gaya.
6. The Administrator, Nagar Panchayat, Bodh Gaya, Gaya.
7. The Ranky Infrastructure Pvt. Ltd. C/o Nagar Panchayat Bodh Gaya having its Local Office at Bodh Ga

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. J.S.Arora, Sr. Adv. Mr. Mukund Mohan Jha, Adv.
For the Respondent/s	:	Md. Khurshid Alam, AAG-12 Mr. Ajay Behari Sinha, GA-8 Mr. Upendra Kr. Sinha, AC to GA-8
For the Nagar Parishad	:	Mr. Ashok Kumar Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date : 31-07-2019

Heard the parties.

The writ petition was filed for issuance of a writ in the nature of mandamus commanding the respondent authorities in the State Government as well as in the Nagar Panchayat to refrain from making any construction over the plot of land bearing Kheshra No. 973 admeasuring 6 acres 36 decimals in Mauza Surajpura, in the district of Gaya without initiating any acquisition proceedings.



The various stages through which this writ petition has travelled stands noted in the order passed from time to time and it is under order of this Court passed on 21.6.2017 and 26.7.2017 when the District Magistrate, Gaya was directed to get spot inspection done and to submit report as regarding the extent to which the plot of the petitioner was encroached in the construction of sewerage treatment plant. The report of the District Magistrate confirms encroachment to an extent of 42 decimals.

When this matter was taken up on 3.4.2019, this Court was informed that the Second Appeal filed by the State to question the decree passed by the 1st Appellate Court in favour of the writ petitioner, who was the plaintiff before the court below, was admitted for hearing but no order was passed on the stay application.

It is taking note of such situation that this Court by the order passed on 3.4.2019 allowed the Principal Secretary, Revenue and Land Reforms, Govt of Bihar, Patna either to pay compensation as admissible to the petitioner for encroachment of 42 decimals or to remove structure standing on such part of the area which as per the report of the District Magistrate, Gaya was an encroachment on the land of the petitioner. The matter thereafter has been taken on board on a number of dates but since



no steps was being taken in this connection that this Court by the order passed on 17.7.2019 while reminding the concerned respondent authorities in the State Government to take a decision either way in terms of the earlier directions of this Court, made it clear that any default in discharge would persuade this Court to draw appropriate proceedings.

Today when the matter is taken up two sets of affidavits is being filed, one at the instance of the District Magistrate, Gaya while the other affidavit is filed on behalf of the Urban Development and Housing Department who while enclosing an order dated 23.7.2019 addressed to the Managing Director, Bihar Urban Infrastructure Development Corporation (BUIDCO for the sake of brevity) has directed for removal of the structure in so far as it encroaches to the extent of 42 decimals over the land of the petitioner, the description of which is already given above. The direction present is made conditional, subject to the outcome of Second Appeal No. 450/2017.

Since a decision has already been taken in this regard by the Urban Development and Housing Department, except that it does not provide a time frame for such removal, I fix the time limit at three months from today within which period let the encroachment to the extent of 42 decimals be removed from the



land of the petitioner and the obligation for such discharge is cast on the Department of Urban Development and Housing as well as the District Magistrate, Gaya.

The writ petition is disposed of with the observations and directions above.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.08.2019
Transmission Date	NA

