

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9735 of 2013

=====

Santan Prasad Singh, Son of Sri Kameshwar Prasad, Singh Resident of
Village - Umga, P.S. - Madanpur, District - Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Bihar, Patna
2. The Collector, Aurangabad
3. The Sub-Divisional Officer, Aurangabad
4. The Circle Officer, Madanpur, District - Aurangabad
5. The Project Kanya Uchcha Vidyalaya Madanpur, P.S. - Madanpur, District - Aurangabad
6. Anugrah Uchcha Vidyalaya Madanpur, P.S. - Madanpur, District - Aurangabad

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Amarnath Jha, Advocate
For the Respondent/s : Mr. Manoj Kr. Ambastha

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 06-05-2019 Heard learned counsel for the petitioner and the State.

2. Earlier the petitioner approached this Court in C.W.J.C. No. 11840 of 2011. The writ application was disposed of on 05.03.2012 in the following manner:

“I accordingly direct that the Circle Officer, Madanpur may issue notices to the petitioner as well as the respondent no.5, who would be at liberty to bring their own Amins. The Government Amin will measure the lands in presence of the two parties as indicated above. A joint measurement report of all the three Amins should be produced before the Circle Officer, Madanpur who will forward it to the District



Magistrate, Aurangabad for passing final orders in this manner.

The parties are directed to produce a copy of this order before the Circle Officer, Madanpur and the District Magistrate, Aurangabad within a period of one month from the date of receipt of a copy of this order.

The effect of Annexure-11 and 13 shall remain stayed till a final decision is taken by the District Magistrate, Aurangabad.

Till such time, no constructions should be made on the lands in question by either party.

This writ application is disposed of with the aforesaid observations and directions.”

3. After the order of the writ Court, the District Magistrate, Aurangabad has passed the order on 21.11.2012 in Encroachment Case No. 42 of 2012.

4. The petitioner is aggrieved by the aforesaid order dated 21.11.2012 passed in Encroachment Case No. 42 of 2012.

5. From perusal of order dated 21.11.2012 it appears that there are serious dispute as to the title and the issue of title cannot be decided in a proceeding under Article 226 of the Constitution of India.

6. Under the aforesaid circumstance, the Court relegate the petitioner to explore the remedy available under the



Common Law by way of filing suit before the competent civil court.

7. It is needless to state here that the observations or the discussions of the Revenue Authority cannot influence the Court in the matter of deciding the title. The order dated 21.11.2012 challenged in the instant writ application shall not cause any prejudice to the petitioner, in case, the petitioner files suit for declaration of title and consequential benefit before the competent civil court. The petitioner shall be at liberty to obtain interim relief by filing appropriate petition before the competent civil Court and the Civil Court will pass appropriate order without being prejudiced by the order passed by the District Magistrate, Aurangabad.

8. With the aforesaid, this application stands disposed of.

(Anil Kumar Upadhyay, J)

uday/-

U			
---	--	--	--

