

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 2406 of 2017

Arising out of

Civil Writ Jurisdiction Case No. 17039 of 2016

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Smt. Kanchan Dewedi, Wife of Sri Sudhakar Dewedi, Residence of Mohalla -
Postal Park Road No- 3 Ward No.- 31, House No. - 118 Police Station -
Jakkanpur, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector-cum-District Magistrate, Patna.
2. Sri Sanjay Kumar Agrawal, the District Magistrate, Patna.
3. Sri Alok Kumar the Sub-Divisional Magistrate, Patna Sadar, Patna.
4. Sri Abhishek Singh the Chief Executive Officer, Patna Municipal Corporation, Patna.
5. Sri Vijay Kumar Upadhyay, the Executive Officer, Patna Municipal Corporation, Kankarbagh, Patna.
6. Sri Md. Shamim Ahmad, the Circle Officer, Patna Sadar, Patna.
7. Sri Abhishek Singh, the District Urban Development Authority, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Upadhyay, Advocate
For the PMC	:	Mr. Prasoon Sinha, Advocate
For the State	:	Mr. Md. Khurshid Alam, AAG 12
		Ms. Nutan Sahay, AC to AAG 12

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 04-11-2019

Heard learned counsel for the petitioner; learned AC to
AAG 12 for the State and learned counsel for the Patna Municipal
Corporation (hereinafter referred to as the 'Corporation').

2. From the pleadings and materials on record, the Court
finds that the authorities have complied with the direction of the



Court in its order dated 23.11.2016 passed in CWJC No. 17039 of 2016.

3. The authorities have taken the stand that after spot inspection, it has been verified that there has been no encroachment by any party and the boundary wall, which is alleged to have been made by way of encroachment is on the private raiyati land of the persons concerned.

4. To this, learned counsel for the petitioner drew the attention of the Court to notice of the year 1990 by the Corporation, copy of which has been brought on record in the show cause filed on behalf of opposite parties no. 1, 2 and 5 on 16.04.2019, to indicate that the road in question was declared to be a public street.

5. On a query of the Court to learned counsel as to how a notice inviting objection can be considered to be a final publication of declaring the lane to be a public street, learned counsel could not show any final notification. Even in the show cause of the State, the specific stand has been taken that there has been no order passed with regard to declaring the said path as public street nor any documentary evidence submitted from which inference could be drawn that the said road is a public road.



6. Having considered the matter, the Court finds substance in the stand taken by the State authorities. Mere notice showing intention to declare the street as public street, unless it is followed by notification declaring the street to be a public, is of no help to the petitioner.

7. In view thereof, the Court does not find any occasion to proceed in the matter. Accordingly, the same stands disposed off.

8. However, it shall be open to the petitioner to move before the appropriate forum, in accordance with law, for any grievance which she may still have with regard to the street being a public street and encroachment having been made on the same by private persons, which shall be considered on its own merits, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

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