

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13380 of 2019

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Girija Devi, Wife of Late Durga Shankar Bhadur, Resident of Mohalla- Chand Chaura (Gabrapra), P.S.- Civil Lines, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Land Revenue, Bihar, Patna.
2. Divisional Commissioner, Magadh Division, Gaya.
3. District Magistrate cum Collector, Gaya.
4. Sub-Divisional Officer, Gaya.
5. Circle Officer, Town Block, Gaya.
6. Pooja Kumari, W/o Hare Krishna, Resident of Mohalla- Bajaja Road, P.S.- Kotwali, District- Gaya.
7. Sandhya Kumari, W/o Sanjay Kumar, Resident of Mohalla- K.P. Road, P.S.- Kotwali, District- Gaya.
8. Nagar Nigam (Now Gaya Municipal Corporation , Gaya, through its City Commissioner Municipal Commissioner, Gaya, Municipal Corporation, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar
For the Respondent/s : Mr.Raj Kishore Roy (GP18)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 26-08-2019 Heard both sides.

The petitioner has filed this writ petition for issuance of direction to the respondents to depute sufficient police personnel in pursuance of order contained in memo No. 929 dated 17.09.2018 so that petitioner may construct his boundary wall.

The learned counsel for the petitioner submits that petitioner filed a petition before the Sub divisional Officer for deputation of police personnel so that petitioner may construct boundary wall over his land of plot No. 398, area 576 sq. feet



situated in Mohalla Chand Chaura, Holding No. 234(A), P.S. Vishnupad, circle town District Gaya and the Sub divisional Officer directed to deposit money for deputation of police personnel. It is submitted that petitioner filed petition under the provision of Bihar Land Disputes Resolution Act, 2009. Earlier the petitioner filed Title Suit No. 35 of 2012 in the court of Munsif-I, Gaya for correction of record of rights of revisional survey and the suit was decreed vide judgement dated 25.08.2014 and decree 09.09.2014 but one Umesh Prasad sold his land to respondent No.6 and 7 and they began to put hindrance in the construction of boundary wall and thereupon the petitioner filed the petition.

The State respondents filed counter affidavit stating that petitioner has not filed execution case for execution of judgement and decree passed in Title Suit No. 35 of 2012 and the same can exclusively be executed by the Civil Court. It is further submitted that the dispute does not relate and comes within the purview of Section 3 of Bihar Land Disputes Resolution Act, 2009 and, therefore, the Sub divisional Officer has got no jurisdiction to pass order for deputation of police personnel for construction of boundary wall of the petitioner unless the dispute between two sides, the petitioner and private respondents, is settled and resolved by the competent authority under the Act. The petitioner has not filed any petition before the competent authority for demarcation of his land and unless the land of the petitioner is demarcated by a competent authority the petitioner is not entitled to construct boundary wall on the dispute land.

The learned counsel for the petitioner submits that petition may be given liberty to file petition before the Circle



Officer for demarcation of his land.

Having considered the submissions of both sides, I find that in fact the petitioner filed Title Suit No. 35 of 2012 for making correction in the record of rights and suit of the petitioner, as stated by the petitioner, was allowed and decree was passed. The petitioner did not make any prayer in the suit for demarcation of land, construction of boundary wall and for restraining the respondents from interfering into peaceful possession of the petitioner. The private respondents might be putting hindrance claiming their own right and title on the land and this court in writ jurisdiction cannot decide the dispute involving title of the petitioner or private respondents. Accordingly, I am disposing of this writ petition with liberty to the petitioner that, if so advised, the petitioner may file petition before the Circle Officer for demarcation of his land and if such a petition is filed the Circle Officer, after deposit of fees, may depute Amin for demarcation of the land of the petitioner.

With this observation, this writ petition is disposed of.

(Prabhat Kumar Jha, J)

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