

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8094 of 2014

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Smt. Shila Pathak W/o Sri Prem Ranjan Pathak Vill. Matorha, P.S. Masaurhi,
Dist. Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. D.M., Patna
3. S.D.O. danapur
4. D.C.L.R. Danapur
5. Circle Officer, danapur
6. Officer incharge, Danapur P.S. danapur
7. Sri Binay Rai S/o Sri Paras Rai At Daldali road Danapur P.O. and P.S. Danapur dist. Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amarendra Kumar Mishra
For the Respondent/s : Mrs .Neelu Agrwal

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

6 30-08-2019 The present writ petition has been filed for directing the respondent authorities to remove the encroachment/obstruction made by the private respondent no. 7.

The brief facts of the case according to the petitioner is that one Smt. Abha Devi purchased a piece of land for construction of a residential house from Mosmat Gulabo Devi. Thereafter, the petitioner is stated to have purchased the land in question and she was assured by the vendor that 20 feet road is existing whereafter, the petitioner is stated to have constructed the house, however, after she came to Patna and went back to



her house at Danapur, she found that the respondent no. 7 had created obstruction in the *Kachcha Rasta* throwing debris/*Kachra*. Subsequently, the respondent no. 7 constructed a wall in the middle of the road and obstructed the way to the house of the petitioner herein. It is the complaint of the petitioner that though she had approached the respondent authorities for redressal of her grievances, however, no heed was paid to her prayers.

Per contra, the learned counsel appearing for the respondent nos. 1 to 6 submits that the state authorities have filed a counter affidavit through the Circle Officer, Danapur wherein it has been stated that the case, as put forth by the petitioner, is false inasmuch as the private respondent no. 7 has in fact encroached the purchased land i.e. Raiyati land of the petitioner herein and there is no law under which the State Government is empowered to remove such encroachment.

This aspect of the matter has not been controverted by the petitioner by filing any rejoinder affidavit.

I have heard the learned counsel for the parties and I find that not only the present case involves disputed question of facts but it appears that the private respondent no. 7 has encroached the private land of the petitioner herein for which



the remedy for the petitioner is to approach the competent court having original civil jurisdiction.

Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, this Court finds that the writ petition is not maintainable, hence is dismissed.

(Mohit Kumar Shah, J)

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