

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1449 of 2017
Arising out of
Miscellaneous Jurisdiction Case No.4976 of 2014
Along with
Interlocutory Application No. 2 of 2019

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Rajesh Prasad @ Shatrughan Prasad Son of Late Musafir Prasad, resident of
Mohalla Chiryatar Town Gaya, P.S.- Rampur, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Land And Revenue
Department, Government Of Bihar, Patna,
2. Mr. Liyan Kunga, Commissioner Magadh Division, Gaya.
3. Mr. Ravi Kumar, District Magistrate, Gaya.
4. Sri Rajesh Kumar Srivastava, Deputy Inspector General Magadh Division,
Gaya.
5. Mr. Garima Mallick, Superintendent of Police, Gaya.
6. Shri Alok Kumar, The Deputy Superintendent of Police, Bodh Gaya.
7. Shri Arun Kumar, The Officer Incharge Cherki Gaya.
8. Shri B.K. Jaiswal, The Subdivisional Officer, Sadar Gaya.
9. Gobardhan Yadav, son of Rohan Yadav, resident of Village- Dirwan, P.S.-
Cherki, Gaya.
10. Lala Yadav,
11. Jago Yadav, both sons of Gobardhan Yadav,
12. Kalu Ansari, son of Juber Ansari,
13. Juber Ansari, son of not known,
14. Raju Ansari, son of Aslam Ansari,
15. Arjun Prasad, son of Uma Shankar Prasad,
16. Kedar Paswan, son of Ram Chandra Paswan,
17. Ram Daheen Manjhi, son of Janki Manjhi, All resident of Village- Dirwara,
P.S.- Cherki, District- Gaya.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Nand Kishore Prasad Sinha, Advocate
For the State	:	Mr. Asif Kalim, AC to AAG 12
For the O. Ps. No. 10 to 12	:	Mr. Uma Kant Shukla with Mr. Bhaskar Shankar, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH



ORAL JUDGMENT

Date : 18-11-2019

Heard learned counsel for the petitioner; learned AC to AAG 12 for the State and learned counsel for the opposite parties no. 10 to 12.

2. The petitioner has moved the Court alleging deliberate disobedience of order dated 29.04.2015 passed in MJC No. 4976 of 2014. The order reads as under:

“In the light of the order of this Court dated 22.04.2015 Sub-Divisional Magistrate, Gaya has appeared, states that in compliance of the judgment, decree passed by the competent Civil Court appropriate action shall be taken against the encroachers Opposite Party Nos. 9 to 12 and 14 to 17 within a reasonable time, they shall be removed from the lands-in-question. So far Respondent No. 13 Juber Ansari is concerned, he has obtained a purcha under the Privileged Persons Homestead Tenancy Act, action against him shall be taken once the land-holder files a petition for cancellation of the said purcha.

In the light of the statement made by Sub-Divisional Officer, Gaya the contempt petition is disposed of.”

3. The stand is that the opposite parties no. 9, 10, 11, 12 and 17 have been removed from the lands in question whereas the opposite parties no. 13, 14, 15 and 16 have *purcha* issued in favour of them under the Privileged Persons Homestead Tenancy Act and pursuant thereto petitioner having filed application against such settlement process has been initiated on the same.



4. Such stand was on record by the authorities on 24.10.2019 itself on which learned counsel for the petitioner had asked for one opportunity to verify as to whether such stand taken by the authorities is correct.

5. At this juncture, learned counsel for the opposite parties no. 10 to 12 submitted that they have filed Interlocutory Application No. 2 of 2012 for recall of the order dated 29.04.2015 passed in MJC No. 4976 of 2014 which, according to them, has been obtained by suppressing the fact before the Court that title appeal was pending with regard to the lands in question.

6. Today, learned counsel for the petitioner is not in a position to indicate as to whether the stand taken by the authorities is incorrect and only a bald statement is made that encroachments have not been removed.

7. In the aforesaid background, in the absence of material to indicate that the stand of the authorities is clearly incorrect, in the considered opinion of the Court, there cannot be any deliberate or wilful violation of the order dated 24.09.20015 passed in MJC No. 4976 of 2014.

8. Accordingly, the application stands disposed off.



9. In view of the disposal of the present application, no order is required on Interlocutory Application No. 2 of 2019 which also stands disposed off.

(Ahsanuddin Amanullah, J)

Anjani/-

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