

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25238 of 2019

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Nurain Alam, Son of Abdul Haque, resident of Village- Piprahi Block and P.S. Ladania, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Collector, Madhubani.
2. The Collector of the District- Madhubani.
3. The Superintendent of Police (S.P.) Madhubani.
4. The Sub - Divisional Officer, Jainagar, Madhubani.
5. The Circle Officer, Ladania, Madhubani.
6. The Thana-Incharge, Ladania Thana, Madhubani.
7. Mohd. Idris, Son of Abdul Kudus, resident of Village- Piprahi Block and P.S.- Ladania, District - Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shashi Nath Jha
For the Respondent/s : Mr.Rishi Raj Sinha (SC19)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 20-12-2019 Heard both sides.

Since the order itself is without jurisdiction, therefore,
no notice is required to be sent to the respondent No.7.

By the impugned order, the Circle Officer entertained a petition of Md. Idris, son of Abdul Kudus for allowing him to construct house on the disputed land restraining Nurain Alam(the petitioner) who was obstructing the construction of house.

Admittedly, Bhekha Mian had three sons namely, Abdul Gaffur, Abdul Sattar and Abdul Sakur. Abdul Hamid is



the son of Abdul Gaffur. Abdul Hamid got three sons namely Abdul Kudus, Abdul Salam and Abdul Kalam. Respondent No.7, Md. Idris is son of Md. Kudus. Petitioner is the great grandson of Abdul Sattar. Abdul Sattar got one son namely, Abdul Jabbar. Jabbar died leaving behind only daughter Kaushar. Jabbar was married with Nurul Nisha. Kaushar got two sons namely, Isnain Alam and Nurain Alam(the petitioner). Petitioner and respondent No.7 claimed their names on the basis of their inheritance from their ancestor but the Circle Officer without having any jurisdiction to pass any order with regard to either allowing any person or restraining another person from doing any work on the facts that they claimed their land to be their own, referred the letter No.8/Misc.24-14/12-24-8/Ra issued on 17.01.2017 under the signature of Principal Secretary, Revenue and Land Reforms and submits before the Court that by the aforesaid letter, the Circle Officer is to hold a Janta Darbar and settled the land disputes among the raiyats. The Circle Officer also unsuccessfully tried to persuade the Court that he has got jurisdiction to pass order as contained in Annexure-6 on the basis of the aforesaid letter but on perusal of the letter itself, it appears that the Circle Officer has misconstrued the true import of the letter issued by the Principal



Secretary, Revenue and Land Reforms. The Circle Officer usurped the power which is not vested in him by any Statute, Act and Rules for restraining any party or coparcener or allowing another not to construct or construct any house in any disputed land. Therefore, I find that the order dated 09.11.2019 contained in Annexure-6 passed by the Circle Officer, Ladania, Madhubani is without jurisdiction and accordingly, the same is set aside. Thus, this writ petition is allowed.

Before parting with the order, the Circle Officer is warned not to act any illegal and irresponsible manner with regard to the subject which is not vested in him in accordance with law.

(Prabhat Kumar Jha, J)

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