

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3838 of 2020

1. Sanjoy Kumar Sinha @ Sanjay Kr. Singh Son of late Ram Dutt Sinha, Resident of Village- Hinduni, P.O. Alampur, Gonepura Panchayat, Nausa, Phulwarisharif, District- Patna, Presently residing at Adarsh Nagar, Road No. 1, Near Railway Station, Phulwarisharif, P.S.Phulwarisharif, District- Patna.
2. Vijay Narayan Sinha @ Vijoy Narayan Singh, Son of late Ram Dutt Sinha, Resident of Village- Hinduni, P.O. Alampur, Gonepura Panchayat, Nausa, Phulwarisharif, District- Patna, Presently residing at Adarsh Nagar, Road No. 1, Near Railway Station, Phulwarisharif, P.S.Phulwarisharif, District- Patna.
3. Vinay Kumar Sinha @ Vinay Kr. Singh, Son of late Ram Dutt Sinha, Resident of Village- Hinduni, P.O. Alampur, Gonepura Panchayat, Nausa, Phulwarisharif, District- Patna, Presently residing at Adarsh Nagar, Road No. 1, Near Railway Station, Phulwarisharif, P.S.Phulwarisharif, District- Patna.
4. Abhay Kumar Sinha @ Abhay Kr. Singh Son of late Ram Dutt Sinha, Resident of Village- Hinduni, P.O. Alampur, Gonepura Panchayat, Nausa, Phulwarisharif, District- Patna, Presently residing at Adarsh Nagar, Road No. 1, Near Railway Station, Phulwarisharif, P.S.Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Director General of Police, Government of Bihar, Patna.
3. The Collector-Cum-District Magistrate, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Sub- Divisional Magistrate/S.D.O. Patna.
6. The Circle Officer, Phulwarisharif, District- Patna.
7. The Station House Officer, Phulwarisharif Police Station, District- Patna.
8. Syed Athar Ali, Son of Syed Masood Ali, Resident of House No. 314, Alinagar Colony, Anisabad, P.S. Gardanibagh, District- Patna.
9. Sanjeet Kumar, Son of Uday Roy, Resident of Village-Ishopur, P.S. Phulwarisharif, District- Patna.
10. Realtors Private Ltd. Jamal Road Patna through Director namely S. Ali, Son of S. Ali Yusuf, Samardhi Commercial Complex, S.P. Verma Road, Patna.
11. Sidheshwar Mahto, Son of Chandra Mahto, Resident of Ishopur, P.S. Phulwarisharif, District- Patna.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar
For the Respondent/s : Mr.Md. N.H. Khan (Sc1)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 25-02-2020 Heard both sides.

Petitioners have filed this writ petition for directions to the District Magistrate, Patna and the Senior Superintendent of Police, Patna to restrain private respondent nos.8 to 11 from constructing house on Plot No.73, Khata No.112, Tauzi No.5323 measuring 2 bigha 3 katha situated in Village Hinduni, P.O. Alampur, Gonepura Panchayat, Nausa, District-Patna.

Learned counsel for the petitioners submits that Title Suit No.471 of 1992 was decreed in favour of the petitioners but the other side filed appeal, as submitted, which is pending in the High Court.

On the face of it, it appears that there is a dispute with regard to title of the land of the petitioners. The petitioners and private respondent are fighting civil litigation. The appeal is pending in the High Court, therefore, I am of the view that this Court exercising power under Article 226 of the Constitution of India on such disputed question of title cannot direct to the State respondent to restrain the private respondents from making construction over the disputed land. The petitioners have got



remedy by filing petition under Order 39 Rule 1 and 2 of the CPC in the pending appeal for restraining the private respondents from making any construction over the disputed land during pendency of the appeal but without exhausting efficacious remedy available to the petitioners, the petitioners approached this Court and seeks relief to give direction on the disputed question of facts.

Having considered the facts, I find no merit in this writ petition. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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