

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1676 of 2019

1. Ram Kailash Ram Son of late Jagdev Ram, Resident of Village- Shahpur Undi, P.S. Patory, Distt. Samastipur.
2. Must. Meghiya Devi, Wife of late Vilash Ram, Resident of Village- Shahpur Undi, P.S. Patory, Distt. Samastipur.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Old Secretariat, Patna.
2. The District Magistrate, Samastipur.
3. The Additional Collector, Samastipur.
4. The Superintendent of Police, Samastipur.
5. The Sub Divisional Police Officer, Patory, Samastipur.
6. The Sub Divisional Officer, Patory, Samastipur.
7. The Block Development Officer, Patory, Samastipur.
8. The Circle Officer, Patory, Samastipur.
9. The Officer-in-Charge, P.S. Patory, Samastipur.
10. Smt. Sita Devi, Wife of Mandesh Kumar, Resident of Village- Bhaua, P.S. Patory, Distt. Samastipur.
11. Mahendra Narayan Singh, Son of Yadunandan Prasad Singh, Resident of Vill- Nayanaagar, P.S. Hasanpur, Distt. Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dhananjai Kumar Singh
For the State : Mr.Sanjay Kumar AC to SC 8

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

08-01-2020 The present application has been filed for the following reliefs as formulated by the plaintiffs/petitioners--

*“I. For setting aside the order dt.
27.05.2019 passed by the learned
District Judge, Samastipur in*



connection with Civil Miscellaneous Appeal No. 24/2017 arising out of Title Suit No. 110/2016 presently pending in the court of learned Civil Judge, Senior Division, Patori.

II. For setting aside the order dt. 25.07.2017 passed by learned Civil Judge, Senior Division, Patori, Samastipur in Title Suit No. 110/2016.

III. For setting aside the order dt. 27.11.2018 passed by Addl. Collector, Samastipur, by which he directed S.D.P.O. Patori and Officer-in-Charge, Patori to ensure raising of boundary wall over the disputed land in favour of Respondent No.10, during the pendency of Misc. Appeal 24/2017, before learned District Judge, Samastipur.

IV. For holding that, learned First Appellate Court should have considered the fact that, Addl. Collector, Samastipur has no jurisdiction to pass any order with regard to the disputed land, on account of pendency of same matter (Misc. Appeal 24/2017), before a court of competent jurisdiction.

V. For holding that, it was not considered by the learned First Appellate Court, that during the pendency of Misc. Appeal No. 24/17 (in



respect of the disputed land) Addl. Collector Samastipur unlawfully interfered with the matter and got the boundary wall raised over the disputed land with assistance of police force, in favour of Respondent No.10.

VI. For holding that, both the learned courts below dismissed the injunction petition of the petitioners without considering the merit of the case i.e. balance of convenience and irreparable loss which cannot be compensated in terms of money.”

2. Learned counsel for the plaintiffs/petitioners states that the order dated 25.07.2017 dismissing their injunction petition in Title Suit No. 110/2016 was challenged in appeal before the learned District Judge, Samastipur in Civil Misc. Appeal No.24/2017. During the pendency of the said appeal, the Additional Collector, Samastipur, acting wholly without jurisdiction, passed the order dated 27.11.2018 directing the S.D.P.O., Patori and Officer-in-charge, Patori to ensure raising of boundary wall over the disputed land in favour of respondent no.10. Such action was challenged before this Court in CWJC No. 2230 of 2019 which was disposed of by order dated 07.02.2019



holding, *inter alia*, that no direction could be issued, undoing something which had been done at the instance of the Additional Collector, as alleged. However, the plaintiffs/petitioners were granted liberty to pursue their case before the court below.

3. Learned counsel for the plaintiffs/petitioners fairly accepts that through sheer inadvertence, appropriate petition before the learned District judge was not filed, rather only some documents were furnished.

4. Having heard learned counsel for the plaintiffs/petitioners and on consideration of materials on record, this Court is unable to find any illegality or infirmity in the impugned order of the learned District judge.

5. It is not in dispute that the action of the Additional Collector, Samastipur was made the subject-matter of challenge before this Court in CWJC No. 2230 of 2019 which was disposed of with liberty to approach the court below. The plaintiffs/petitioners for some reason failed to avail of such liberty and did not take appropriate steps for redressal of their grievance.

6. In the above circumstances, no relief can be



granted to the plaintiffs/petitioners by this Court in exercise of its jurisdiction under Article 227 of the Constitution. The petition is accordingly dismissed.

7. The plaintiffs/petitioners are always at liberty to seek remedy before any appropriate forum as may be available to them, in accordance with law.

(Vikash Jain, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13. 01.2020
Transmission Date	

