

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2267 of 2020

Abhay Kumar @ Abhay Kumar Singh, aged about 68 years, Male, Son of
Late Laxmi Prasad Singh Resident of Village Beyapur, P.S.- Maner, District-
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Sub- Divisional Officer, Danapur, District- Patna.
4. The Deputy Superintendent of Police, Danapur, District- Patna.
5. The Circle Officer Maner, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan No. 1, Advocate
For the State	:	Mr. Raj Kishore Roy, GP 18 with Mr. Mukul Prasad, AC to GP 18

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 20-02-2020

Heard learned counsel for the petitioner and learned
GP 18 for the State.

2. The petitioner has moved the Court for the
following reliefs:

*“i. An appropriate writ in the nature of
Certiorari for quashing the order dated 16/03/2019
passed by the Collector cum District Magistrate,
Patna in Misc. Appeal Case No. 02/2018-19,
whereby and where under the learned Collector cum
District Magistrate, Patna dismissed the application
filed by the petitioner in light of the order dated
18.05.2016 passed by the Hon’ble Court in C.W.J.C.*



No. 2566 of 2016, may be issued.

ii. An appropriate writ in the nature of mandamus directing the respondents to remove the encroachment over the land in question over which the respondents are trying to construct a road without following the due process of law.

iii. Any other writ/writs, order/orders or direction/ directions as the facts and circumstances of the case may require and deemed fit by this Hon'ble Court may also be issued."

3. The point for consideration in the present writ application is whether the road proposed to be constructed by the authorities is being built on the private land of the petitioner.

4. Learned counsel for the petitioner submitted that in the year 1987, by order dated 19.10.1987, the Land Reforms Deputy Collector, Danapur had passed an order holding that the land of the school in question was within the boundary wall and outside that was the land of the petitioner. It was submitted that thereafter, in March, 1990 there was a *panchayati* with regard to the land in question and the land was held to belong to the petitioner. It was further submitted that in the year 2002, the Circle Officer, Maner instituted Miscellaneous Case No. 1/2001-02 for cancellation of *jamabandi* of Plot No. 88 in the name of the petitioner but the same was dismissed by the Land Reforms Deputy Collector, Danapur by order dated 18.12.2002. Learned counsel submitted that there being disturbance with



regard to the construction of the road on the private land of the petitioner where villagers had resorted to firing, an FIR was lodged in the Maner Police Station on which proceeding under Section 144 of the Code of Criminal Procedure, 1973 was initiated. Learned counsel submitted that he has also filed Title Suit No. 120 of 2000 before the Sub Judge 1, Danapur to cancel the sale deed dated 04.07.2000 executed by Mithilesh Kumar Singh (petitioner's brother) in favour of Malti Devi, who is said to have agreed to allow construction of the road on four feet of the land purchased by her contiguous to the seven feet road of the school. Learned counsel submitted that even in the order impugned passed by the Collector-cum-District Magistrate, Patna dated 16.03.2019, there is reference with regard to fresh measurement, but the same has not been done in the presence of the petitioner and even the last notice has been served on his son. Learned counsel submitted that once there was a measurement already done and order passed by the Land Reforms Deputy Collector, Danapur on 19.10.1987, there could not have been re-measurement without there being a duly constituted proceeding instituted for such measurement. It was submitted that the dispute related to private land which cannot be decided by the revenue authorities.



5. Learned counsel for the State submitted that first of all the order dated 19.10.1987 is totally perfunctory without any details of consideration. Moreover, it was submitted that the second measurement was done by the team comprising the Sub Divisional Officer, Danapur; the Deputy Collector Land Reforms, Danapur and the Circle Officer, Maner. It was submitted that despite notice to the petitioner and him coming at the spot he went away saying that he would come another day and later on also when he came he did not stay for the measurement. It was submitted that thereafter again notices were issued to him and the last one was received by his son but he did not appear due to which the Collector-cum-District Magistrate, Patna passed a detailed and reasoned order on 16.03.2019. It was submitted that the order has been passed in terms of the directions of the Writ Court in CWJC No. 2566 of 2016 dated 18.05.2016 filed by the petitioner himself in which the District Magistrate was directed to take a decision as to whether the land in question was private belonging to the petitioner. Learned counsel submitted that on the basis of the letter of the Headmaster of the school in question dated 18.10.1987, it is clear that the land of the school though enclosed in the boundary, seven feet outside also belonging to



the school was left for road. It was submitted that thereafter another four feet has been agreed to be used for the road by Malti Devi who is the purchaser of the land in question from the brother of the petitioner. It was submitted that till date, no adverse order has been passed against the interest of Malti Devi. Learned counsel submitted that in such background and most importantly the fact that three senior officers of the district had got fresh measurement conducted, the claim of the petitioner cannot be sustained.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present writ application.

7. The reliance of the petitioner on order dated 19.10.1987 of the Land Reforms Deputy Collector, Danapur cannot be taken to be the last word on the issue. Besides the order being totally perfunctory giving no details and disclosing no consideration at all, being cryptic, would be difficult to be sustained by any court of law. Further, the order passed by the Collector-cum-District Magistrate, Patna dated 16.03.2019, as has rightly been submitted by learned counsel for the State, has been passed under the specific direction in CWJC No. 2566 of 2016 filed by the petitioner himself, by which he was directed to



take a decision in the matter. The conduct of the Collector-cum-District Magistrate, Patna, in the opinion of the Court, is *bona fide*, as he had set up a three member committee of senior officers of the district to look into the matter and they have conducted the measurement in their presence after giving more than ample opportunity to the petitioner which has not been availed by him. Even before passing of the final order, the Collector-cum-District Magistrate, Patna again gave a notice to the petitioner to appear for hearing on 16.03.2019, which was received by his son and still he chose not to appear.

8. In view of the aforesaid, the Court finds that the order of the Collector-cum-District Magistrate, Patna dated 16.02.2019 contained in Memo No. 449 dated 19.03.2019 is well reasoned and he has taken into account all aspects of the matter, and at the cost of repetition, has passed the order after giving more than sufficient opportunity of hearing to the petitioner, though not availed, and also after getting the land in question measured under the direct supervision of three senior officers of the district.

9. For reasons aforesaid, the writ petition stands dismissed.

10. It goes without saying that the petitioner would be



free to pursue the remedy available to him under law before the appropriate forum.

(Ahsanuddin Amanullah, J)

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