

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15731 of 2017

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1. Md. Abdullah Hussain @ Abdullah Farooqui, Son of late Hussain Mazhar Resident of Flat No. 303, Alnoor Apartment, Khagaul Road, Opposite Mahavir Cancer Hospital, P.S. Phulwari Sharif, District- Patna.
 2. Waris Ali Farooqui, Son of late Hussain Mazhar Farooqui Resident of C-Block- 310, Officer's Hospital, Bailey Road, Patna -800001Bihar.
 3. Shahdab Hussain, Son of Md. Abdullah Hussain, Resident of Flat No. 303, Alnoor Apartment, Khagaul Road, Opposite Mahavir Cancer Hospital, P.S. Phulwari Sharif, District- Patna.
 4. Harish Ali Farooqui, Son of Waris Ali Farooqui Resident of C- Block, 310, Officer's Hospital , Bailey Road, Patna- 800001 Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Government of Bihar, Patna
2. The Collector-Cum-District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna.
4. The City Superintendent of Police, Patna, District and Town Patna.
5. The Officer Incharge, Kotwali Police Station, Patna.
6. Tahmina Imam Purvani daughter of late Syed Akbar Imam, Resident of B-1, 3rd Floor, Gitanjali Enclave, New Delhi.
7. Sayed Akabir Hussain Son of Syed Shakir Hussain Resident of Hussain Khan Sarai, P.O. Sambhal, District- Muradabad, Uttar Pradesh, at Present resident of Jamal Road, P.S. Kotwali, District- Patna.
8. The Muzaffarpur Properties pvt. Ltd. through its Managing Director Sri Amar Nath Pandey, Son of late Ragunath Pandey Resident of Kachi Sarai, P.S. Mithanpura, District and Town Muzaffarpur, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate
For the State	:	Mr. S.P.Singh, GA-3
For Respondent No. 7	:	Mr. Rajesh Kr. Singh, Advocate
For Respondent No. 8	:	Mr. Sanjeev Kr. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

17 27-10-2021

Heard learned counsel for the parties.

This writ application has been filed seeking a



direction to the respondent authorities to ensure that in view of the order dated 14.02.2012, passed by the Division Bench of this Court in MJC No. 1348 of 2007, the private respondents do not encroach upon and alter the nature of the land, in contravention of the said order. The relevant portion of the order of this Court dated 14.02.2012 reads as under :-

“21. The arrangement made by this Court shall continue to be monitored and implemented by the District Magistrate, Patna and if he feels any difficulty he may approach this Court by filing application. It is also made clear that we have purposely pointed out different title suits pending in the court so that interested persons in the property in question may, if so advised, pursue their remedy before the Civil Court and seek their right and enforcement of the same by obtaining order of the Civil Court in accordance with law. It is clarified that order for Custodia Legis in the context of the case means an arrangement only to keep the property intact and not allow it to be alienated, destroyed or changed without orders of the Civil Court. It is further made clear that the Civil Court hearing the matters may put the property in possession of a proper receiver if any of the parties apply for the same and if such course is found necessary and as per law.”



The observation made by this Court in paragraph 21 is ample liberty to interested persons in the property in question to pursue their remedy before the civil court and seek their right and enforcement of the same by obtaining order of the civil court in accordance with law.

It is not in dispute that certain suits are pending before the civil court. Learned counsel for the petitioner states that the petitioners have also filed title suit bearing No. 33 of 2018, apparently after filing of the present writ application.

Considering the facts and circumstances as noted above, and in the light of the order of this Court passed by the Division Bench, relevant portion of which has been quoted hereinabove, in my opinion, this writ application cannot be maintained and is accordingly dismissed.

It goes without saying that the petitioners shall have the liberty to pursue their remedy before the appropriate forum in accordance with law.

(Chakradhari Sharan Singh, J)

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