

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8620 of 2020

1. Sumitra Devi, aged about 50 years (Female) Wife of Sri Akhilesh Vishwakarma.
2. Rajesh Kumar, aged about 32 years (Male), Son of Sri Akhilesh Vishwakarma.
Both Resident of Village- Ghorhat Salarpur, P.O.- Salarpur Via Nehalpur, P.S.- Kalpa, District- Jehanabad, State- Bihar.
At present Chhoti Rukanpura (Mahuabagh), PO- B V College, PS- Hawai Adda, District- Patna, State- Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reform, Bihar, Patna.
2. The Divisional Commissioner, Patna.
3. The District Magistrate cum Collector, Patna.
4. The D.C.L.R., Danapur, Patna.
5. The Circle Officer, Danapur, Patna.
6. Nagina Singh Son of Late Jai Kishun Singh.
7. Ajay Kumar Son of Sri Nagina Singh.
8. Om Prakash Singh Son of Sri Nagina Singh.
9. Ajit Kumar, Son of Sri Nagina Singh.
10. Smt. Seema Suman Kumari, Wife of Sri Niranjana Kumar Singh.
All resident of Chhoti Rukanpura (Mahuabagh), PO- B V College, PS- Hawai Adda, District- Patna, State- Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ravi Kant Kumar, Advocate
For the State	:	Mr. Sajid Salim Khan, SC 25 with Mr. Wasi Ahmad Khan, AC to SC 25

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 02-02-2021

The matter has been heard *via* video conferencing.



2. Heard Mr. Ravi Kant Kumar, learned counsel for the petitioners and Mr. Sajid Salim Khan, learned SC 25 along with Mr. Wasi Ahmad Khan, learned AC to SC 25, for the State.

3. The petitioners have moved the Court for the following reliefs:

“(A) To issue the Writ of Mandamus Commanding the Respondents to Discharge there Legal Obligation to disposed the Application given by petitioners on dated 21/08/2020 under Land Disputes Resolution Act 2009, as per laws and procedure.

(B) To issue the writ of certiorari and order to the Respondents for, Demolish the Boundary Wall illegally constructed over the land of the petitioners situated under Mauza Dhanant (Mahuabagh), Chhpti Rukanpura, Anchal-Danapur, District- Patna bearing Thana No. 20, Khata No. 119, Keshra No. 2567, Some of the Land Dispute for Issue the matter Related to the Passage (Rasta) and also constructed the some land over the Land of the Petitioners by respondent No. 10 forcedly with the Help of police and Local Executive Magistrate in illegal blatant Force and Means.

(C) To issue the writ of mandamus commanding the Respondents to discharge there legal obligation to conducted the proper Enquiry in the matter and given the opportunity to the Petitioners accordance with law and Provision of laws.

(D) To Proper legal action against the such responsible Respondents which are involved in such illegal, Manner to harass the petitioners with so many corners.

(E) To any other Relief/s, order/s, Direction/s to Petitioners may be found entitled to.”



4. Learned counsel for the petitioners submitted that the common vendor of the petitioners and the private respondents had earmarked certain piece of land for common passage, but the private respondents have blocked the same by keeping bricks and other materials due to which the petitioners are unable to use it as a passage. It was submitted that they had moved the DCLR, Danapur, Patna (respondent no. 4) for clearance of the same but he has disposed off the representation saying that he has no jurisdiction to entertain such application under the provisions of Section 9 of the Bihar Land Dispute Resolution Act, 2009 (hereinafter after referred to as the 'Act').

5. Learned counsel for the State submitted that such dispute of getting any private area cleared is not within the jurisdiction of the authorities under the Act as only there can be demarcation of the boundaries, that too, based on legally enforceable documents like registered sale deed etc. It was further submitted that the authorities do not have the power to implement or execute any agreement between the parties for which only the Civil Court of competent jurisdiction has jurisdiction.

6. Having considered the facts and circumstances of the case and submission of learned counsel for the parties, the Court finds substance in the stand taken by learned counsel for the State.



7. Accordingly, the writ petition stands disposed off with liberty to the petitioners to move before the appropriate forum, in accordance with law, with regard to the reliefs claimed in the present writ application.

8. The Court would only observe that it has not expressed any opinion with regard to the merits of the case and if the petitioners move before such forum, the case of the petitioners shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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