

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8442 of 2021

Kiran Sinha

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nand Kishore Prasad Sinha
For the Respondent/s : Mr.Raj Kishore Roy (Gp18)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 27-09-2022 Heard the parties.

It has been pointed out that the order No. 5 dated 12.09.2022 has been wrongly typed as order No. 4.

Let the order dated 12.09.2022 be corrected to read as order no. 5 in place of order no. 4.

The following prayer has been made in Paragraph 1 of the writ petition:

1. *“That this is an application for issuance of an appropriate writ, order or direction directing the Respondents to give protection to the life and property of the petitioner guaranteed under Article 21 and 300A of the Constitution of India over the Land of khata No. 22 Plot No. 328 having an area of 7 decimals which is the ancestral land of the petitioners and the petitioners are coming in peaceful possession over the land since last*



80 years over which the residential house as well as shops of the petitioners is situated and there is having 5 feet rasta width from west and east and 100 feet long from North to South situated in the town of Aurangabad long thana No. 560 which is sought to be encroached by Respondent No. 9 and 10 without any authority of law being a musclemán having connection with antisocial element and wanted to be block the Rasta by the petitioners which is only the outgress and ingress of the petitioners and when it is objected by the petitioners they became adamant to assault the petitioners and obstructing the right to easement of the petitioners over the aforesaid Rasta when the petitioners over the aforesaid Rasta when the land in question has been mutated in the name of the petitioners and is coming in peaceful possession of the land in question including Rasta and the petitioners have filed several application before authority concerned for removal of encroachment over the Rasta in question but nothing is being done by the Respondents and the petitioner is being deprived from his valuable property at the hand of the respondents and as such the action of the Respondent is not permissible in law and thus vitiated.”



The petitioners after filing of this writ application had filed one BLT Case No. 109 of 2022 under the B.L.D.R. Act and had challenged the order dated 02.03.2021 passed by the Deputy Collector, Land Reforms in Land Resolution Case No. 172 of 2019-20 whereby and whereunder the application filed by the petitioners under Section 4 of the B.L.D.R. Act for unauthorized and unlawful dispossession of the petitioners for encroachment of 5ft. width Rasta from East to West and 100 ft. long Rasta from North to South of the petitioners situated in Aurangabad town over Khata No. 22 Plot No. 328 bearing Thana No. 560.

The writ petition was filed in the year 2021 and was registered on 25.03.2021. In the land tribunal, the case was filed in 2021 and the affidavit in support of the petition was sworn on 28.10.2021.

Learned counsel for the respondents has raised a preliminary objection that the petitioner is initiating multiple proceedings for the same relief in this High Court as well as under the BLDR Act.

He further submits that the petitioner had suppressed the filing and pendency of the writ petition in this Court before the Bihar Land Tribunal.



Considered the submission of the parties.

The dispute relates to *Rasta* which cannot and which should not be decided in the writ proceedings. This kind of disputes which involves analyzing the documentary as well as oral evidence cannot be decided in a writ proceedings.

In these circumstances, this writ application is dismissed with liberty to the petitioners to approach the Civil Court for appropriate relief.

With the aforesaid observation and directions, this case is dismissed.

(Sandeep Kumar, J)

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