

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1126 of 2022
Arising out of
Civil Writ Jurisdiction Case No.9840 of 2021
Along with
Interlocutory Application No. 1 of 2022
In
Miscellaneous Jurisdiction Case No.1126 of 2022

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Gita Devi (female), aged about 41 years, Wife of Late Santosh Kumar,
Resident of Mohalla- Mithapur, B. Area, Nandu Bhawan Raghunath Road,
P.S.- Jakkanpur, District- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Mr. Amir Subhani, Chief Secretary, Govt. of Bihar, Patna.
2. Mr. Anand Kishore the Principal Secretary, Urban Development Department, Govt. of Bihar, Patna.
3. Mr. Dr. Chandrashekhar Singh the District Collector, Patna.
4. Mr. Jitendra Pandey the Circle Officer, Patna Sadar, District- Patna.
5. Mr. Raj Kumar (J.E.E.) the Executive Officer, Patna Municipal Corporation, Patna.
6. Dheeraj Kumar S/o- Indeo Paswan Resident of Mohalla- Mithapur, B. Area, Raghunath Road, P.S.- Jakkanpur, District- Patna.
7. Neeraj Kumar S/o- Indeo Paswan Resident of Mohalla- Mithapur, B. Area, Raghunath Road, P.S.- Jakkanpur, District- Patna.
8. Guddu Kumar S/o Indeo Paswan Resident of Mohalla- Mithapur, B. Area, Raghunath Road, P.S.- Jakkanpur, District- Patna.
9. Shatrughan Kuma S/o- Indeo Paswan Resident of Mohalla- Mithapur, B. Area, Raghunath Road, P.S.- Jakkanpur, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Mirtyunjay Kumar with Mr. Akhileshwar Pandey, Mr. Niraj Kumar, Mr. Anil Kumar and Mr. Hitesh Suman, Advocates
For the State	:	Mr. Kinkar Kumar, SC 9 with Ms. Deepika Sharma, AC to SC 9
For the Corporation	:	Mr. Sanjay Prakash Verma, Advocate
For the proposed Intervener	:	Mr. Hemendra Prasad Singh, Senior Advocate with Mr. Anil Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date : 21-12-2022

Heard Mr. Akhileshwar Pandey, learned counsel for the petitioner; Mr. Kinkar Kumar, learned SC 9 for the State and Mr. Sanjay Prakash Verma, learned counsel for the Patna Municipal Corporation.

2. Mr. Hemendra Prasad Singh, learned senior counsel along with Mr. Anil Kumar, learned counsel submits that he has filed Interlocutory Application No. 1 of 2022 for being added as a party respondents. He submits that the matter is purely private and unnecessarily, the petitioner with *mala fide* intention had moved this Court seeking a direction to connect the drain of the Patna Municipal Corporation till her house which passed through their private land by not making the persons who would actually be affected as party respondent in the writ petition.

3. On a query of the Court to learned counsel for the petitioner as to whether the land through which the proposed drain is to be constructed is private or public, the categorical answer is that it is private land of the interveners. On a further query as to whether the four persons in the writ petition, i.e., the respondents no. 6, 7, 8 and 9 were the owners of the land in



question through which the proposed drain is to be constructed, the answer is in the negative.

4. Learned counsel for the Patna Municipal Corporation submits that when they tried to connect the main drain to the house of the petitioner, it was objected by the local residents. He also does not dispute the position that the land is totally private.

5. Having regard to the overall situation which has emerged during the course of arguments, the Court has no hesitation to record that it is not a fit case where the Court would intervene. The land being totally private and belonging to the proposed interveners, the matter has to be sorted out before the Civil Court of competent jurisdiction. The Court would also note at this point that in the writ petition itself the petitioner had stated that for the last over fifty years the drain water from her house was flowing through a piece of land belonging to her agnates and because they were objecting, a fresh route was started out.

6. At this juncture, learned counsel for the petitioner intervened and he said that he moved the Court for directing the agnates i.e., respondents no. 6 to 9 not to stop the flow of sewerage water through their land.



7. Having regard to the entire facts and circumstances of the case, the Court finds that the present contempt application is not required to be pursued further as the dispute is purely private between the petitioner and the original respondents no. 6 to 9, which has to be sorted out before the Civil Court of competent jurisdiction where all the affected parties would have a chance to contest.

8. Accordingly, the application stands disposed of.

9. The Patna Municipal Corporation shall remove whatever material used or belonging to it from the site within one week.

(Ahsanuddin Amanullah, J)

(Sunil Dutta Mishra, J)

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