

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.859 of 2023

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Sideshar Vishwakarma Son of Late Kishun Vishwakarma, Resident of Mohalla-North Mandiri, Near Devi Sthan, Ward No. 27, Police Station-Budha Colony, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through, the Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Additional Collector, Patna.
4. The Additional Collector-Cum-First Appellate Authority (P.G.R.) Patna.
5. The Sub Divisional Magistrate, Patna Sadar, District, Patna.
6. Tjhe Deputy Collector, Land Reforms, Patna Sadar, District-Patna.
7. The Sub Divisional Public Grievance Redressal Officer, Patna Sadar, District-Patna.
8. The Circle Officer, Patna Sadar, District-Patna.
9. Chandan Kumar Bhatta, the Anchal Amin Circle Patna Sadar, District-Patna.
10. The Officer-In-Charge of Budha Colony, Police Station, District-Patna.
11. Ashok Kumar Yadav Son of Late Fauzdari Yadav Resident of Mohalla North Mandiri, Near Devi Sthan, Ward No. 27, Police Station-Budha Colony, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar Jha, Adv.
For the Respondent/s : Mr. Sajid Salim Khan (Sc 25)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 23-06-2023

Heard learned counsel for the petitioner and

learned counsel for the State.

The petitioner has filed the present writ petition

firstly to direct the Circle Officer to proceed in the Measurement

Case No. 95 of 2021-22 and secondly, for implementing the

order dated 08.08.2017 passed in C.W.J.C. No. 17196 of 2014

as well as order dated 12.10.2017 passed in C.W.J.C. No. 14358 of 2016.

Counsel for petitioner submits that petitioner has filed this petition for measurement of his land situated under Mauza Dujra, Thana No. 10/4 Khata No. 22, Plot No. 713 appertaining to Jamabandi No. 312 and 660 Circle Officer, Patna Sadar running in the name of petitioner's father and mother. Counsel submits that he has filed the application before the Circle Officer for measurement of his said land but Circle Officer has stopped the said proceeding bearing Measurement Case No.95 of 2021-22 on the ground that there is an injunction order dated 11.10.2018 passed in Title Suit No. 402 of 2018 in which order of status quo has been made.

Counsel for petitioner further submits that in the said Title Suit No. 402 of 2018, he was not made party and therefore, he submits that since he is not party to the said title suit therefore, he is not bound by the said order and measurement to proceed. Counsel submits that in this regard, he has filed representation vide Annexure-4(i) and 4(ii) but nothing happened. He further submits that petitioner has also filed a petition due to non-action on the part of respondent no.9 before the Public Grievances Redressal Authority, but the same was

heard and dropped. Thereafter, he has preferred appeal before the appellate authority which was also dismissed on the ground of pendency of the Title Suit No. 402 of 2018.

Counsel submits that the private respondent no. 11 is encroacher of public land which is subject matter of order dated 08.08.2017 passed in C.W.J.C. No. 17196 of 2014 as well as the order dated 12.10.2017 passed in C.W.J.C. No. 14358 of 2016. Therefore, he moved before this Court for taking action against the official respondent as well as against the private respondent.

Counsel for State submits that the case of petitioner is not maintainable at all. The Circle Officer (respondent no.8) has taken a correct decision and restrained himself in the measurement case due to the reason that there is an injunction order on the said Plot no. 713 which is page-39 of the present writ petition.

Counsel for State further submits that for the purpose of implementation of the order passed in aforesaid writ petitions about which the writ petitioner has mentioned in the present petition, the remedy lies before this Court only by way of filing contempt petition.

After going through the submissions made by the

parties and record of the case, this Court is of the view that no relief can be granted to the petitioner because the land in dispute is subject matter of T.S. on which injunction order is there. The actual remedies to the petitioner lies before the Civil Court, where injunction order has been passed or to challenge it. Since the land in dispute is the subject matter of the title suit even the petitioner is not party of the title suit though the Circle Officer is bound to follow the restrain order passed in the said title suit.

Accordingly, the present writ petition is hereby dismissed with liberty to the petitioner that he may avail his remedy in the title suit itself by way of filing application under Order 1 Rule 10 of the C.P.C. adding himself as party, and then to proceed further.

(Dr. Anshuman, J.)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	