

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10518 of 2022

Radhika Kuwar @ Radhika Devi Wife of Shrikant Tiwari, R/o - Vill. and P.O.
- Kaithi, P.S. - Bagengola, District - Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Reforms Department, Patna, Bihar.
2. The District Magistrate, Buxar.
3. The Sub-Divisional Magistrate, Dumaron, District - Buxar.
4. The Circle Officer, Brahmpur, District - Buxar.
5. Sashikant Tiwari Wife of Shrikant Tiwari, R/o - Vill. and P.O. - Kaithi, P.S. - Bagengola, District - Buxar.
6. Krishnakant Tiwari son of Shrikant Tiwari, R/o - Vill. and P.O. - Kaithi, P.S. - Bagengola, District - Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajiv Ranjan Kr. Pandey, Advocate
For the State	:	M/s Sajid Salim Khan (SC 25) Prakritika Sharma, AC to SC 25
For the Respondent no. 5	:	Mr. Sanjay Kumar Griyaghey, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 04-04-2023 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the respondent no.
5.

The petitioner has filed the instant writ application for
the following relief(s):-

*“1. That this is an application for issuance of a writ in the
nature of 'Certiorari' quashing the Notice vide memo no-
1410 dated 24.06.2022 issued under the signature of
Learned Anchal Adikari, Brahmpur, District-Buxar, in Land
Disput Case No-03/21-22 and consequently quashing the
entire proceeding of said Land Disput Case No-03/21-22*



pending before the said Court, the said proceeding initiated over the land bearing Khata No-133, Khasra No- 2067 total area about 36 feet X 7 feet 4 inch situated at Muza Kaithi, Thana No-263, Anchal-Brahmpur, Buxar, and directed to demolish the part of the residential house including boundary wall of the petitioner without given the proper opportunity of hearing.

1/A For issuance of a writ in the nature of Mandamus Commanding and directing the respondents authority to give the proper opportunity of hearing to the petitioner during encroachment proceeding. And without hearing the petitioner restraint the respondent No-4 to not pass such order.

1/B. For issuance of any other writ/writs order/orders, direction/directions for which the petitioner found entitle to.”

It is submitted by learned counsel for the petitioner that the respondent authorities proceeded to issue notice dated 24.6.2022 (Annexure-3) issued under the signature of the Circle Officer, Brahampur asking the petitioner to remove the wall described in the said notice by 24.7.2022 or else the same will be got removed by the authorities for which the petitioner will have to bear the expense. The petitioner is also aggrieved by the notice dated 28.6.2022 issued under the signature of Circle Officer, Brahampur stating that as directed by order dated 1.7.2022 of the D.C.L.R., Dumrao, the land of the petitioner would be demarcated.

Learned counsel for the petitioner submits that the



respondents should have first demarcated the land of the petitioner before issuing any notice asking them to remove the boundary wall as contained in Annexure-3 to this application.

On issuance of notice, the respondent no. 5 has appeared and filed a counter affidavit in the case. Learned counsel for respondent no. 5 submits that the petitioner has suppressed material facts from this Court and has got an interim order in her favour to the effect that the possession of the petitioner over the land in question shall not be disturbed. Learned counsel for respondent no. 5 submits that he has brought on record the order dated 4.5.2022 (Annexure-3 to the counter affidavit of the respondent no. 5) passed in Land Dispute Resolution Case no.3 of 2021-22 by the D.C.L.R., Dumraon. It is stated that the petitioner was one of the parties in the said proceedings, was heard and, thereafter, order dated 4.5.2022 was passed by the D.C.L.R., Dumraon. It is further submitted that besides the said order being the appealable, the competent authority is to execute the order as provided under section 15(6) of the Bihar Land Dispute Resolution Act, 2009. It is submitted that inspite of the said final order having been passed by the D.C.L.R., Dumraon on 4.5.2022 and the affidavit for filing of the instant writ application having been sworn by



the petitioner several months later on 11.7.2022, material facts were suppressed by the petitioner in the instant writ application. The writ petitioner has not come to this Court with the clean hands and as such the writ application be dismissed with heavy cost.

In response, learned counsel for the petitioner submits that the order under challenge in the writ application having been passed by the respondents in a hurry without even the time for preferring a statutory appeal having passed, as such the instant application was filed.

Having heard learned counsel for the parties and taking into consideration the materials on record, the Court is not satisfied with the explanation furnished by the petitioner. The Court finds substance in the submissions made by learned counsel appearing for the respondent no. 5 that the petitioner was a party and was heard in Land Dispute Resolution Case no. 3 of 2021-22, which was disposed of by the D.C.L.R., Dumraon by order dated 4.5.2022. The petitioner suppressed this material fact by not mentioning the same in the instant writ application.

The petitioner clearly did not approach this Court with clean hands. Besides alternative remedy, the Court is satisfied that on the above ground alone, the writ application is fit to be



dismissed.

The writ application is dismissed, with cost of Rs. 25,000/- to be paid by the petitioner which shall be deposited with the Bihar State Legal Services Authority within a period of six weeks.

(Partha Sarthy, J)

Spd/-

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