

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.866 of 2023

In

Civil Writ Jurisdiction Case No.9009 of 2023

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Asha Devi @ Asha Sharma Wife of Late Uma Shankar Sharma, Resident of
Vidyapati Marg, Budha Colony, Post Office- G.P.O. Patna, P.S. Patna
Kotwali, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms
Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Patna Division, Patna.
4. The District Magistrate, Patna, District- Patna.
5. The Circle Officer, Patna Sadar, District- Patna.
6. The Bihar State Board of Religious Trust, Vidyapati Marg, Patna through the
Secretary.
7. The Secretary, The Bihar State Board of Religious Trust, Vidyapati Marg,
Patna.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 9009 of 2023

=====

Asha Devi @ Asha Sharma Wife of Late Uma Shankar Sharma Resident of
Vidyapati Marg. Budha Colony, Post Office-G.O.P. Patna, P.S. Patna Kotwali,
District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms
Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Patna Division, Patna.
4. The District Magistrate, Patna. District-Patna.
5. The Circle Officer, Patna Sadar, District-Patna.
6. The Bihar State Board of Religious Trust, Vidyapati Marg, Patna through the
Secretary.
7. The Secretary, The Bihar State Board of Religious Trust, Vidyapati Marg,
Patna

... .. Respondent/s

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Appearance :

(In Letters Patent Appeal No. 866 of 2023)



For the Appellant/s : Mr. S.B.K.Manglam, Advocate
Mr.Awnish Kumar, Advocate
For the Respondent/s : Md. Khurshid Alam, AAG 12
(In Civil Writ Jurisdiction Case No. 9009 of 2023)
For the Petitioner/s : Mr. S.B.K.Manglam, Advocate
Mr.Awnish Kumar, Advocate
For the Respondent/s : Mr.Raj Kishore Roy, GP -18

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-10-2023

Present appeal has been filed against an order where the writ petition was directed to be heard, after the respondents had appeared. The appellant is aggrieved that no interim order was passed.

2. The writ petition was also called for and the challenge is against an order of demolition passed by the Circle Officer declaring the petitioner an encroacher and her possession invalid.

3. It is submitted by the learned counsel for the appellant that later, a *status quo* order was passed in a suit, however, the respondents are not complying with that. No such order is produced.

4. Learned counsel for the respondents submits that the petitioner filed a suit after the demolition as per the order in the encroachment case.

5. In any event, these matters are to be dealt with



by the Civil Court and not in a writ petition. In the writ petition, there was no order passed and since, the respondents had appeared, the matter was posted for hearing. The challenge in the LPA is against the order declining interim order.

6. We are of the opinion that there could have been no interim order passed by the learned Single Judge and the writ petition itself is misplaced insofar as the parties would have the remedy before the Civil Court. An appeal is said to have been filed from the order in the encroachment case; which also can be prosecuted. In our opinion, neither the LPA nor the writ petition is maintainable. We dismiss the same, but, however, leaving liberty to the parties to agitate their cause before the Appellate Authority or the Civil Court, on the merits of which, we have made no observation.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	06.10.2023
Transmission Date	

