

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14599 of 2022

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1. Ram Shankar Das, Son of Late Bajrangi Das, R/o Vill. Aswari, P.S. Tisiouta, Dist. Vaishali.
 2. Sushil Das, Son of Late Bajrangi Das, R/o Vill. Aswari, P.S. Tisiouta, Dist. Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms and Revenue Department, Bihar, Patna.
2. The District Magistrate Cum Collector, Vaishali at Hajipur.
3. The Superintendent of Police, Vaishali at Hajipur.
4. The Sub Divisional Magistrate, Mahua, Vaishali.
5. The Deputy Collector, Land Reforms, Mahua, Vaishali.
6. The Circle Officer, Mahua, Vaishali.
7. The Officer-Incharge, Mahua, P.S., Vaishali.
8. Chandraketu Singh S/o Late Deosundar Singh R/o Vill- Harpur Belwa (Taran Chowk), P.S. Mahua, District- Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ram Shankar Das (In Person)
For the Respondent/s	:	Mr. Raj Kishore Roy, G.P-18
		Mr. Mukul Prasad, A.C to G.P-18
For the Resp. No.8	:	None

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

Date : 17-04-2023

Heard learned counsel for the petitioners and learned counsel for the respondent-State of Bihar.

No one appears on behalf of respondent no.8 inspite of valid service of notice.

The petitioners have filed the instant application for the following relief(s) :-

“i. To direct the State/Respondents to erect a Boundary pillar upon the fixed point as per measurement



conducted by Anchal Amin where measurement report already submitted to the C.O. Mahua for appropriate action but after demarcation no action was taken by him up till now after the report of Anchal Amin, so that during the passage of time the western boundary Raiyat digged out/ root out by striking the pillar. It has already been held in case of Bajrangi Das V/S State of Bihar & Ors. Reported in PLJR 2010 (4) PLJR 606 defined that the Collector has wide power with respect to maintenance of peace, prevention of Encroachment & also protecting the right of citizens. It is submitted that prayer for protection of boundary, the measurement report indicates that the mussel men grabbed some portion of land of the petitioner in the form of Jot (cultivating). An encroacher in the opinion of court can not be given any protection by a court.

ii. To direct the state authorities/employed respondents to give adequet protection at the time of erecting of boundary wall because of that the person who is mussel men, anti social element who with the help of anti social elements after digging the pillar three times digged out the pillar fixed by the Govt. Anchal Amin who fixed the pillar on the fixed point after measurement where the only one Encroacher Chandraketu Singh whose house is situated adjacent to the land of the petitioner from western side digged out the pillars on 18.09.2022. It is submitted that earlier two times measurement was conducted and obstruction created by one person namely Chandraketu Singh from western side of the land of the petitioner. It is stated in presence of concerned boundary parties measurement done but only one person after fixing of the pillar forcefully eradicated



the pillars from the western side of the land of the petitioners.

iii. To direct the state machinery to take serious action against those officials who after filing several complaints/applications with relevant documents did not turn up protecting the right of the citizen as per Hon;ble high Court directions.”

Learned counsel for the petitioners submits that the land of the petitioners which is subject matter of the instant writ application appertains to Khata no.57, Plot nos.1655 and 1656 at Tanra Chawk revenue village Harpur Belwa under Mahua Circle and P.S. Devnandan Singh and Ram Sresth Singh who were the owners and in possession of the land in question sold the same through a registered sale deed dated 13.06.1967 in favour of the father of the petitioners, who died later on 22.1.2014.

It is the case of the petitioners that as a result of dispute between the petitioners and respondent no.8, the same led to the petitioners filing Misc. Case no.72/2017-18, before the Collector, Vaishali at Hajipur. The said case filed under the Bihar Tenancy Act was disposed of by the Collector by his order dated 29.1.2019 (Annexure-1) directing the Circle Officer, Mahua to give information to all interested persons and then to get the land in question measured. It is the case of the petitioners that information was given by the Circle Officer to all the interested persons and date was fixed for measurement of the land in question. The



measurement could not take place for different reasons like heavy rainfall etc. Ultimately, respondent no.8 also started creating obstruction in carrying out the measurement which led to the Anchal Amin writing to the Circle Officer for deputation of extra police force. Finally, the measurement could take place and measurement report as contained in Annexure-7 was submitted.

Learned counsel for the petitioners submits that inspite of having put the pillar as per the measurement report on more than two occasions, the private respondent forcibly removed the same. It is submitted that in different orders passed by this Court, copy of which has also been brought on record as Annexure-8 to the writ application, the respondents have come out with an order as contained in Annexure-9 directing for deputation of the police personnel for measurement of the land in question and for maintenance of law and order. It is thus submitted that similar order be passed in the instant case also, and protection be granted and boundary wall be erected.

On a specific query put by this Court as to whether the order dated 29.1.2019 (Annexure-1) passed in Misc. Case no.72/2017-18 (Ram Shankar Das and Ors. vs. Ketu Singh and Ors.) by the Collector, Vaishali, whether the same has been challenged in any Court or not, it has been stated by learned counsel appearing for the petitioners that the same has not been



challenged and still stands.

Having heard learned counsel for the parties and having perused the material on record, the facts which the Court gathers from the writ application are that pursuant to the Misc. Case no.72/2017-18 having been preferred by the petitioners before the Collector, Vaishali at Hajipur, by order dated 29.1.2019 the Collector, Vaishali at Hajipur ordered and directed the Circle officer, Mahua after deposit of the requisite fee and after information to all persons concerned to get the land in question measured. The said order was passed under the Bihar Tenancy Act, 1885. Measurement took place pursuant to the said order. However, it also transpires that neither the said order passed by the Collector was challenged nor has the respondent no.8 chosen to appear and contest the instant case.

In view of the facts and circumstances of the case, the instant writ application is disposed of with the following directions:-

I. The petitioners shall file a representation before the Collector, Vaishali at Hajipur within a period of four weeks from today.

II. The Collector, Vaishali at Hajipur shall direct the Circle Officer, Mahua, Vaishali to proceed with the measurement of the land in question and to fix the boundaries of the land of the



petitioners.

III. The Officer In-charge, Mahua, Vaishali shall depute adequate police force at the cost, to be deposited by the petitioners in advance for maintenance of law and order at the time of measurement of the land in question and erection of the boundary wall.

IV. The Circle Officer, Mahua, Vaishali, after fixing the boundary and placing the pillars shall facilitate the construction of boundary wall by the petitioners under police supervision.

V. The above exercise shall be completed within a period of three months from the date of production of the copy of this order.

It goes without saying that this Court has not entered into the merits of the instant case of the parties and the order passed herein would be subject to any order which may be passed by competent Court of civil jurisdiction.

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
Uploading Date	20.04.2023
Transmission Date	N/A

