

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.536 of 2023
In
Civil Writ Jurisdiction Case No.9775 of 2017

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1. Suresh Dhankar Son of Late Yogendra Dhankar Resident of Village-Benipatti, Post-Benipatti. P.S.-Benipatti, District-Madhubani.
 2. Leela Devi Wife of Biltu Dhankar Resident of Village-Benipatti, Post-Benipatti. P.S.-Benipatti, District-Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, department of Revenue and Land Reforms, Bihar, Patna.
2. The Divisional Commissioner, Darbhanga Division, Darbhanga.
3. The Collector, Madhubani.
4. The Additional Collector, Madhubani.
5. The Deputy Collector Land Reforms, Benipatti, Madhubani.
6. The Circle Officer, Benipatti, Madhubani.
7. Bauki Dhankar Son of Thakai Dhankar, Resident of Village-Benipatti, Post-Benipatti, P.S.-Benipatti, District-Madhubani.
8. Biltu Dhankar Son of Late Yogendra Resident of Village-Benipatti, Post-Benipatti. P.S.-Benipatti, District-Madhubani.
9. Raju Dhankar Son of Biltu Dhankar Resident of Village-Benipatti, Post-Benipatti. P.S.-Benipatti, District-Madhubani.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Prakash Chandra Jha, Advocate
For the Respondent/s	:	Mr.Sunil Kumar Thakur, Advocate
		Mr.Ratnakar Jha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-04-2024

The 8th respondent is in appeal from the judgment of the learned Single Judge. The writ petitioner who is the 7th respondent in the appeal filed an application to demarcate the



land of the petitioner and direct the State and its authorities to ensure that the physical possession of the land is not disturbed. The learned Single Judge directed the petitioner to move the Circle Officer, Benipatti Madhubani for demarcation of the land and the Circle Officer was directed to redress the grievance of the petitioner and dispose it of within six weeks from the date of filing of the application in accordance with law.

2. Demarcation of a property can be requested before the Circle Officer, but when it is coupled with a request for protection from disturbance of the physical possession, it is a matter which has to be agitated before the Civil Court. The petitioner in such circumstance has to seek a direction to demarcate the properties with reference to the neighboring properties which demarcation should also be on the basis of the title deed produced by the plaintiff. An injunction could also be sought temporarily and primarily restraining any neighbor, who is impleaded as a defendant from interfering with the peaceful possession.

3. We are of the opinion that such consideration of disputed questions of fact, if left to the Circle Officer; which would definitely arise when the petitioner seeks protection of his peaceful possession, it would be by-passing/usurping the



jurisdiction of the Civil Court. We hence set aside the order of the learned Single Judge, dismiss the writ petition and leave the parties to agitate their cause before the proper Civil Court. We make it clear that we have not spoken on the merits of the claim of title or possession of any of the parties in the writ petition.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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CAV DATE	
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