

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3132 of 2015

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Ramashankar Prasad Chaudhary Son of Ganga Prasad Chaudhary, R/o
village- Paigambarppur Koluha, P.S.- Ahiyapur, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar through the Collector, Muzaffarpur
2. The Collector, Muzaffarpur
3. The Additional Collector, Muzaffarpur
4. The Circle Officer, Kanti, Muzaffarpur
5. The Superintending Engineer, Road Construction Department (North Bihar)
Road Division No. 2, Muzaffarpur
6. The Executive Engineer, Road Construction Department (North Bihar) Road
Division No. 2, Muzaffarpur
7. The Executive Engineer, Road Construction Department ,Road Division No.
1, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate
For the Respondent/s : Mr. Ashok Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 24-07-2024 The present writ petition has been filed seeking the
following reliefs:-

*“1(i) For quashing the notice dated 30.01.2015 issued by
the Executive Engineer, Road Division no.1, Road
Construction Department, Muzaffarpur, pursuant to some
direction issued by the Hon'ble Lokayukt, whereby he has
informed the petitioner to vacate the land in question
within fifteen days otherwise the same would be
demolished.*

*(ii) For restraining the respondents from demolishing the
building in question which is the residential house of the*



petitioner situated over Khata No. 949 Khesra No. 3243 measuring area 5 decimal which has been purchased on 24.2.2006 through a registered sale deed of which it is being stated that ½ decimal has been encroached by the petitioner.

(iii) For holding that the Hon'ble Lokayukt as well as the Executive Engineer, Road Construction Department is not the competent authority to take any action for removal of encroachment.

(iv) For further holding that the concerned authorities are acting arbitrarily and contrary to law and that in view of the order passed by this Hon'ble Court in CWJC No.21229/2011 as also in view of other orders passed the authorities cannot proceed with the demolition.

(v) For also holding that any order passed by the Circle Officer, Kanti, Muzaffarpur without hearing the objection petition of the petitioner and without giving him opportunity is illegal and that the earlier notice dated 31.10.11 would have no bearing on the case especially in view of the order passed by this Hon'ble Court and the Title Suit.”

2. Although the learned counsel for the petitioner seeks not to press the present writ petition, however, seeks liberty on behalf of the petitioner to prosecute the title suit filed by him, i.e. the one bearing Title Suit No.734 of 2011, pending before the learned Court of Sub-Judge-I, Muzaffarpur, however, he submits that it be clarified that the Executive Engineer, Road



Construction Department, Division No.1, Muzaffarpur is not competent to issue notice to the petitioner for removal of the encroachment in question. It is clarified accordingly.

3. At this juncture, the learned counsel for the petitioner submits that *jamabandi* is existing in favour of the petitioner, hence in case the same has not yet been cancelled, the respondent-authorities be directed not to disturb the possession of the petitioner over the land in question. It is directed, accordingly.

4. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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