

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11669 of 2022

1. Surendra Prasad Sinha Son of Late Sarayug Prasad Singh @ Saryug Lal Resident of Village- Ramaul, P.S.- Hathauri, District- Samastipur.
2. Birendra Prasad Sinha Son of Late Shital Prasad @ Shital Lal presently residing at Mohalla- New Bigrahpur Biharipath, P.S.- Jakkanpur, District- Patna, Permanent resident of village- Ramaul, P.S.- Hathauri, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary-cum-Principal Secretary of Health Department, Govt. of Bihar, Patna.
3. The Chief Managing Director, Bihar Medical Services Infrastructure Corporation Ltd., having office at 4th Floor Bihar State Building Construction Corporation Ltd. (BSBCCL) Building, Hospital Road, Shastrinagar, Patna.
4. The Collector-cum-District Magistrate, Samastipur.
5. The Civil Surgeon-cum-Chief Medical Officer, Samastipur.
6. The Sub-Divisional Officer, Rosera, District- Samastipur.
7. The Block Development Officer, Shivajinagar, District- Samastipur.
8. The Circle Officer, Shivajinagar, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhay Shankar Singh, Adv.
For the Respondent/s	:	Mr. Binod Kr. Yadav, SC18 Mr. Randhir Kumar, AC to SC-18
For the Respondent No.3:		Mr. Lali Kishore, Sr. Advocate Mr. Kanishka Shankar, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

9 30-04-2024 Heard Mr. Abhay Shankar Singh, learned counsel for the petitioners, Mr. Randhir Kumar, learned AC to SC-18 and Mr. Kanishka Shankar, learned counsel representing Respondent No.3.

2. The present writ petition has been preferred for the following relief(s):-



“A) for issuance of a writ in the nature of mandamus directing the respondents to ensure the right to property of the petitioner and not to construct any building over their private land without any acquisition proceeding and further restraining the respondents from causing in peaceful enjoyment of their private ancestral land detailed below, over which forcibly foundation stone was laid down by the local MLA on 7.6.2022 in presence of the local Mukhiya and the Block Development Officer for the purpose of construction of community health centre, Shivajinagar.

Details of the land:

Mauza Ramaul, Revenue Thana No-22, Jamabandi No- 47, C.S. Khata No-171, C.S. Survey plot No-684, Area-6 kattha (New survey plot No-1184), Circle- Shivajinagar, District-Samastipur.

B) for any other relief/reliefs to which the petitioners are found entitled under the facts and circumstances of the present case.

3. Learned counsel for the petitioners submits that the land in question belongs to them, some portion was donated for Durga Temple, on the rest, they were having peaceful physical possession since time immemorial. They allege that bulldozing the claim, the respondents started construction of hospital on their rest of the land.

4. Learned counsel for the petitioners submit that as per genealogical table, they are sons of late Saryug Lal and Shital Lal whose father was Late Nirsu Lal. He has taken this Court to Annexure-2, the order of the Executive Officer, Rosera



dated 29.12.1983 which was a proceeding under section 145 of the CrPC between Bilat Mandal v. Saryug Lal (father of the petitioner no.1). The said proceeding was decided in favour of the family of the petitioners with further observation that the State and / or the other party cannot interfere in the peaceful physical possession till an appropriate order is passed by the competent authority. Ignoring the said claim, he alleges that the State Government proceeded for construction of hospital, as narrated above.

5. In the counter affidavit filed on behalf of the State-Respondents in paragraph-8, it has been narrated as follows:-

“8. That in so far as the proceeding u/s 145 of Cr.P.C with respect to the said land of R.S.P. No. 1184 is concern, the claim of raiyati land with respect to the said land neither by the petitioner nor by any person was brought before the respondents nor even any documents were brought by them before the respondents”.

6. The petitioner has made out a case, the proceeding under Section 145 CrPC decided long back; the respondent authorities themselves claim that they were unaware of it; now that the petitioner by way of writ petition has drawn attention of the order, it would be appropriate that the highest authority of the district, namely, the Collector, Samastipur (the respondent No.4) takes a call on the grievance of the petitioners.



7. Learned State counsel as also learned counsel appearing on behalf of Respondent No.3 have no objection to the submissions made on behalf of the petitioners.

8. In that background, the writ petition stands disposed of with a direction to the petitioners to appear before the Collector, Samastipur (respondent No.4) within four weeks from today. If they appear before the concerned respondent within four weeks along with all the relevant documents, after hearing the parties including the State officials and perusing the records, the Collector, Samastipur is duty bound to pass an appropriate reasoned order on the claim of the petitioners.

9. Till the Collector, Samastipur decides the matter, the *status quo* as existing today with regard to the land in question is/are to be maintained.

(Rajiv Roy, J)

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