

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11424 of 2023

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Mahendra Prasad Choudhary Son of Late Yadunandan Choudhry, Resident of Village- Narhaiya, Ward no.-08, Anchal- Sonbarsa Raj, P.S.- Basnahi, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
2. The Commissioner, Koshi Commissioner, Saharsa.
3. The District Magistrate (D.M.), Madhepura.
4. The Sub Divisional Officer (S.D.O.), Sadar Madhepura.
5. The Additional Collector, Madhepura.
6. The Circle Officer (C.O), Madhepura Block, Madhepura.
7. The Halka Karamchari, Madhepura Block, Madhepura.
8. The Officer in charge, Sadar P.S., Madhepura.
9. Surya Narayan Yadav Son of Late Ganga Prasad Yadav, Resident of Garib Tola, ward No. 26, P.S. Sadar, Dist- Madhepura.
10. Raja Bibhuti @ Dharmendra Son of Surya Narayan Yadav, Resident of Garib Tola, ward No. 26, P.S. Sadar, Dist- Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Praveen, Adv.
For the Respondent/s : Mr. Raj Kishore Roy, GP-18

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 29-04-2024 Heard the parties.

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

“(i) For direction to the respondent authorities to immediately remove all illegal encroachment erected by the respondent nos. 9 and 10 from the purchased private land of the petitioner and his brother Dr. Shivendra Choudhary



situated under Mauja- Madanpur, under Circle- Sadar, P.S. Sadar District- Madhepura, Thana No. 64, Khata No. 444/107, Khesra No. 3257/521, Area 0-1-0 katha only.”

3. The petitioner claims to have purchased the land in the year 1992 along with his brother Dr. Shivendra Choudhary from respondent no. 9. In the year 2015, on the objection of the petitioner, the Road Construction Department measured the land, whereafter the pillars were erected on the land of the petitioner.

4. His case is that later the respondent nos. 9 and 10 started creating problem which was informed to the respondent Circle Officer, Madhepura, whereafter the land was once again measured on 02.07.2018 (Annexure-4).

5. The further case of the petitioner is that a hut was erected by respondent no. 10, who is the son of respondent no. 9, whereafter the petitioner preferred a petition before the District Magistrate, Madhepura on 03.03.2021 and thereafter, number of F.I.Rs. were lodged against the respondent nos. 9 and 10 vide Madhepura P.S. Case No. 39 of 2021 and Madhepura P.S. Case No. 186 of 2023 amongst other under Sections 341, 385, 34 and 379 of the I.P.C.

6. His case is that even the S.D.O., Madhepura took



cognizance of the matter and directed the Circle Officer, Madhepura to direct the parties not to create law and order problem and further they are free to move before the appropriate Civil Court for the redressal of their grievance. Learned counsel submits that direction be given to the respondents to ensure that the respondent nos. 9 and 10 go out of his land.

7. Learned counsel for the State on the other hand submits that it is the dispute between two private individuals inasmuch as the petitioner claims to be the purchaser of land from respondent no. 9, who along with his son (respondent no. 10) are creating problem and as per the petitioner himself, a hut has been erected.

8. In that background, S.D.O., Madhepura rightly observed that the parties are free to move before the competent Civil Court and in case, there is any dispute, the Officer In-Charge of the Madhepura Police Station has already been informed to take necessary steps. He further submits that instead of approaching the competent Civil Court and/or invoking different provisions of the Code of Criminal Procedure, the petitioner has directly moved before this writ Court.

9. This Court is complete agreement with the submissions put forward by the learned counsel for the State.



The forum available to the petitioner is the competent Civil Court and not the Patna High Court, in case the dispute is between the two private individuals.

10. The writ petition has got no merit and is accordingly dismissed.

(Rajiv Roy, J)

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