

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14702 of 2023

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1. Kamleshwari Prasad Sinha @ Kamleshwari Prasad Son of Mathura Prasad, Resident of Sabji Market, Ward No. 9, P.S.- Warsaliganj, District- Nawada.
 2. Jyoti Kumar Verma Son of Late Vijay Kumar Verma, Resident of Sabji Market, Ward No. 9, P.S.- Warsaliganj, District- Nawada.
At present resident of Mahavirnagar, Dumardaga, P.S.- Sadar, District- Ranchi, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Patna.
2. The Commissioner, Nawada.
3. The Collector-cum-District Magistrate, Nawada.
4. The Sub-Divisional Magistrate, Nawada Sadar.
5. Shambhu Lal Son of late Ramchandra Lal, Resident of Main Road, Warsaliganj, P.S.- Warsaliganj, District- Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dewendra Narayan Singh, Adv.
For the Respondent/s	:	Mr. Rishi Raj Sinha, SC-19
	:	Mr. Atul Shankar, AC to SC-19

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 24-09-2024 The present writ petition has been filed for setting aside the order dated 05.04.2023, passed in Case No.1119 of 2017, by the learned Sub-Divisional Magistrate, Nawada Sadar, as also for directing the respondents to get the encroachment made by respondent no. 5, upon private road/passage, removed in view of the fact that the right of easement of the petitioners is being violated.

2. The learned counsel for respondents-State submits that a



title suit bearing Title Suit No.112 of 2010 is pending consideration before the learned Court of Munsif, Nawada, wherein the petitioners are defendants and moreover, in case the petitioners seek execution of an order passed by the learned Sub-Divisional Magistrate, Nawada, Sadar, they should approach the learned Court of Sub Divisional-Magistrate, Nawada Sadar, apart from the fact that upon inspection of the plot by the learned Sub-Divisional Magistrate, Sadar Nawada on 05.11.2022, it has been found that the doors and windows of the petitioners were open and there was no hindrance by the respondents as also the road in question is not under any kind of obstruction.

3. Considering the aforesaid facts and circumstances of the case, which remains unrebutted, since no rejoinder affidavit has been filed, though I deem it fit and proper to dispose off the present writ petition, however, with liberty to the petitioners to avail such other alternative remedies, as are otherwise available under the law, in case of any subsisting grievances.

(Mohit Kumar Shah, J)

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