

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13029 of 2024

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Shayam Prasad @ Shayama Prasad S/o Maheshwar Prasad R/o Vill.-
Hathisar, P.S.- Purnahiya, Dist.- Shivhar (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna.
2. The Additional Chief Secretary, Revenue and Land Reform Department,
Bihar, Patna.
3. District Magistrate, Sheohar, Bihar.
4. Sub Divisional Officer, Sheohar, Bihar.
5. Circle Officer, Purnahiya, Sheohar.
6. SHO, Police Station, Purnahia.
7. Raj Narayan Prasad, S/o Late Ramvilas Mahto R/o- Hathisar, P.S.-
Purnahiya, Dist.- Sheohar (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Atul Dayal, Advocate
For the Respondent/s : Mr. Gopal Krishna, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 02-09-2024 Heard Mr. Atul Dayal, learned Advocate for the

petitioner and Mr. Gopal Krishna, learned Advocate for the

State.

2. The petitioner is aggrieved by the order passed by
the Sub Divisonal Officer, Sheohar dated 24.04.2024 directing
the SHO of Purnahiya to take legal action against the
individuals disrupting the construction of the residents of
respondent no. 7. The petitioner also sought quashing of the
notice issued under Section 107 of the Code of Criminal
Procedure.



3. Learned Advocate for the petitioner contended that on account of the fact that some portion of the land has been encroached by the private respondent, he approached before the Circle Officer, Purnahiya requesting for the measurement of his land which gave rise to measurement case No. 38 of 2023-24. Measurement was done, however, on being dissatisfied with the measurement report, the petitioner preferred an appeal no. 01 of 2024-25 before the DCLR, Sheohar, which is pending till date.

4. In the mean time, the petitioner had also filed a Title Suit No. 4 of 2024 before the Court of learned Munsif Sadar, Sheohar which is admitted on 06.05.2024. Despite the aforesaid fact that the appeal and the title suit is pending, the SDO, Sheohar by the impugned order dated 24.04.2024 directed the SHO, Purnahiya that in case any obstruction is being made during the construction of the house, appropriate action is directed to be taken against the person who shall be responsible for creating obstruction. It is also made clear that in case any of the aggrieved party files a title suit and the same is already admitted, in such circumstances *status quo* shall be maintained.

5. On the other hand, learned Advocate for the State submits that so far the notice issued under Section 107 of the Code of Criminal Procedure is concerned, the petitioner has



remedy before the Sessions Judge by filing a criminal revision. Moreover, there is already a title suit pending between the parties and if the petitioner is aggrieved by the construction of the house at the hands of private respondent no. 7, he has remedy to file a petition for injunction in the suit itself.

6. Considering the submissions advanced on behalf of the respective parties and taking note of the factum of pendency of Title Suit No. 04 of 2024 before the learned Munsif Sadar, Sheohar, the writ petition stands disposed of with a liberty to the petitioner to file an appropriate application, for restraining the private respondent for construction of the house.

7. So far the grievance of the petitioner with regard to notice under Section 107 of the Code of Criminal Procedure is concerned, it has rightly been pointed out by the learned Advocate for the State that remedy is available before the learned Sessions Judge in criminal revision.

8. The writ petition stands disposed of.

(Harish Kumar, J)

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