

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14616 of 2024

1. Kameshwar Yadav S/o- Dhaneshwar Yadav R/o- Vill.- Manikpur, Ward No. 01, P.S.- Madhepura, Distt.- Madhepura.
2. Deepak Kumar, S/o- Late Didnesh Yadav, Resident of Village- Manikpur, P.S.- Madhepura, District- Madhepura, Bihar.
3. Surendra Yadav, S/o- Late Dhaneshwari Mandal, Resident of Village- Manikpur, P.S.- Madhepura, District- Madhepura, Bihar.
4. Rajendra Prasad Yadav @ Reajendra Yadav, S/o- Late Dhanewshwari Mandal, Resident of Village- Manikpur, P.S.- Madhepura, District- Madhepura, Bihar.
5. Ashok Yadav, S/o- Late Dhaneshwari Mandal, Resident of Village- Manikpur, P.S.- Madhepura, District- Madhepura, Bihar.
6. Kuleshwar Yadav, S/o- Late Dhaneshwari Mandal, Resident of Village- Manikpur, P.S.- Madhepura, District- Madhepura, Bihar.
7. Most. Shanti Devi, W/o- Late Dinesh Yadav, Resident of Village- Manikpur, P.S.- Madhepura, District- Madhepura, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Madhepura.
2. District Magistrate, Madhepura.
3. The Circle Officer, Madhepura.
4. The Executive Engineer, Building Construction Department, Madhepura.
5. The Junior Engineer, Building Construction Department, Madhepura.
6. The Station House Officer (SHO), Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Parth Gaurav Mr. Akash Raj Mr. Arun Bharti Ms. Nikita Mittal Mr. Rajit Ranjan
For the Respondent/s	:	Mr. Government Pleader (2)

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 28-10-2024 1. Heard learned counsel for the petitioners and learned AC to GP-2.
2. The learned counsel for the petitioners submits that



petitioners are absolute owners of land pertaining to *Khata* No. 1467, *Khesra* No. 7372, Area 40 decimal, *Thana* 62, District-Madhepura.

3. It is submitted that all of a sudden the respondent started putting cement, rod, bricks etc. over the land of the petitioners, on inquiry, the petitioners came to know that Building Construction Department, Government of Bihar is constructing a Registry office on the land in dispute, hence, the petitioners went to the office of the Collector, Madhepura and the Circle Officer, Madhepura to find out, as to on what basis Registry office is being constructed over their *Raiyati* land without acquisition, but no reply was given, accordingly, the petitioners filed Title Suit No. 134 of 2023 in the Court of learned Sub-Judge-1st, Madhepura seeking a declaration of title and possession over the land in dispute, in the suit, the State of Bihar was impleaded as defendants. The learned counsel submits that the State of Bihar appeared in the title suit and filed their written statement denying the title and possession of the petitioners over the land apart from other grounds and also took a plea in the written statement that the Government of Bihar has transferred three acres of land for construction of Registry office. It is submitted that thereafter the learned Sub-Judge-1st,



Madhepura framed issues and after hearing the parties allowed Title Suit No. 134 of 2023 vide judgment and decree dated 23.08.2024 (Annexure-1) declaring the title and possession of the petitioners over the land, further also declared the entry of land in the name of *Anabad Bihar Sarkar and Anabad Sarv Sadharan* in RS *Khatiyar* as null and void.

4. The learned counsel submits that after obtaining the orders in the title suit, the petitioners went to the office of the Collector, Madhepura for stopping the work, but instead of honouring the order of learned Civil Court, the respondent no. 4 i.e. Junior Engineer, Building Construction Department, Madhepura got Madhepura (Bharahi) P.S. Case No. 1011 of 2024 (Annexure-2) instituted against the petitioners, to coerce them into submission so that they do not agitate their claim, thereafter the petitioners filed representation dated 02.09.2024 (Annexure-3) before the Collector, Madhepura along with the judgment and decree in Title Suit No. 134 of 2023 for stopping the work, but no action was taken, necessitating filing of the instant writ application.

5. The learned counsel for the petitioners submits that right to property may not be a fundamental right, but then definitely is a constitutional right and the constitutional right



cannot be taken away except in accordance with the procedure established by law. It is next submitted that it absolutely does not stand to reason that how the Bureaucrats in the State of Bihar behave. It is next submitted that when a Court of competent civil jurisdiction after hearing the parties has come to a considered conclusion that the land in dispute belongs to the petitioners and their title and possession has been declared whether the authorities could still, in breach of the orders passed by the Civil Court, can go on with further construction of the Registry office over the land of the petitioners, it is also submitted that now it does not lie in mouth of the authorities to even contend in view of the order passed by the learned Civil Court in Title Suit No. 134 of 2023 that the land in dispute is a disputed land. It is further submitted that act of the respondent no. 4 in instituting an FIR is nothing but a brute act of State force to coerce the petitioners into submission so that they are not in a position to even raise their claim under fear of arrest.

6. The learned counsel appearing on behalf of the State submits that a counter affidavit has been filed wherein a plea has been taken on behalf of the Collector, Madhepura that a Title Appeal No. 20 of 2024 has been filed before the learned District Judge, Madhepura against the judgment and decree



dated 23.08.2024 in Title Suit No. 134 of 2023 passed by the learned Sub-Judge-1st, Madhepura, on which the learned counsel appearing on behalf of the petitioners submits that the petitioners were not aware of the pendency of the aforesaid title appeal, but after going through the counter affidavit, they came to know that a title appeal has been filed on behalf of the State authorities, as such, the petitioners now will appear in the appeal to contend their case, but then the authorities are proceeding with the construction of the Registry office over the land of the petitioners which stands decided in favour of the petitioners in Title Suit No. 134 of 2023.

7. The learned counsel for the petitioners next submits that petitioners have also represented before the Collector, Madhepura by their representation dated 02.09.2024 annexing the copy of the judgment and decree in Title Suit No. 134 of 2023, but the same till date has not been acted upon, as such, submits that the petitioners would be satisfied in the event if the Collector, Madhepura is directed to dispose of the representation of the petitioners dated 02.09.2024 (Annexure-3). It is also submitted that the authorities be also directed not to proceed with the construction of the Registry office over the land of the petitioners during pendency of the title appeal.



8. After hearing the learned counsel appearing for the parties, the writ application is disposed of with a direction to the Collector, Madhepura to take a decision on the representation of the petitioners dated 02.09.2024 (Annexure-3) within a period of one month from the date of receipt/production of a copy of this order keeping in mind the fact that for the present the land in dispute has been decided in favour of the petitioners by a Court of competent civil jurisdiction.

9. The Collector, Madhepura is directed not to proceed with further construction over the land of the petitioners until he takes a decision on the representation of the petitioners dated 02.09.2024.

10. Accordingly, the instant writ application is disposed of.

(Satyavrat Verma, J)

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