

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15041 of 2024

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Ajay Kumar Jaiswal Son of late Ashok Kumar@ Asha Prasad Jaiswal,
Resident of Mohalla- Nehru Mohalla, Ward No.24, Post Office- Simri
Bakhtiarpur, Police Station- Bakhtiarpur, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Director, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The District Magistrate, Saharsa.
4. The Sub Divisional Officer, Simri Bakhtiarpur, Saharsa.
5. The Station House Officer, Bakhtiarpur Police Station, Saharsa.
6. Md. Nazbul Shakib, Son of Jakaria Dandi, Resident of Bakhtiarpur, Nehru Mohalla, Police Station- Bakhtiarpur, District- Saharsa.
7. President, Naya Masjid-cum-Madarsa Committee, Simri Bakhtiarpur, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Chand Prasad, Advocate
For the Respondent/s : Mr. Government Pleader 19

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 07-10-2024

Heard the parties.

2. The petitioner is aggrieved by the order dated 01.07.2024, passed by the Sub Divisional Officer, Simri Bakhtiarpur, Saharsa in Misc. Case No. 386 of 2023, whereby, the application filed by the petitioner under Section 147 of the Cr.P.C., to restrain the respondent nos. 6 and 7 from making any illegal construction over the land and in the passage/way of the



petitioner has been dropped and directed the petitioner to move before the competent Court.

3. Learned Advocate for the petitioner contended that the land, in question, was duly purchased by the father of the petitioner way back on 26.09.2008. Having purchased the land, the petitioner along with his family members have been coming in peaceful possession and after getting it mutated, paying the rent to the State of Bihar. It is further contended that just beside the land of the petitioner, respondent no. 7 purchased 13 decimal of land on 15.07.2019 and since then, by making illegal construction causing hindrances in the peaceful passage/way of the petitioner, without permission of Nagar Parishad.

4. On being aggrieved by the illegal construction, the petitioner approached before the Sub Divisional Officer, Simri Bakhtiarapur. The report was called for, whereupon, the Officer In-charge, Bakhtiarapur P.S. has conducted an enquiry and submitted a report that on account of construction made by the respondent no. 7, the way of the petitioner is obstructed. Notice was also issued to the private respondent no. 7 to ensure his appearance and file a show-cause reply, but all of a sudden, without considering the police report, the learned Sub Divisional Magistrate, Simri Bakhtiarapur vide order dated



01.07.2024 dropped the proceeding. The petitioner is aggrieved by the order impugned, as the same is contrary to the report submitted by the Officer In-charge, Bakhtiarpur P.S. Hence, approached before this Court.

5. On the other hand, learned Advocate for the State submits that *prima facie*, the dispute is in between two private persons and, as such, the petitioner has remedy to approach before the Civil Court of competent jurisdiction, who shall decide the dispute between the parties, after proper adjudication. It is further contended that if the petitioner is really aggrieved with the order passed by the Sub Divisional Magistrate, Simri Bakhtiarpur, he has the remedy to file a criminal revision.

6. Having heard the learned Advocate for the respective parties and considering the nature of the grievance, this Court finds substance in the submissions advanced on behalf of the State counsel. In view thereof, the writ petition stands disposed off with a liberty to the petitioner to avail the remedy of criminal revision, if he is aggrieved with the order of the Sub Divisional Magistrate, Simri Bakhtiarpur.

7. Suffice it to say that if the petitioner files criminal revision, the learned Court shall consider the application for condonation of delay sympathetically taking note of the fact that



the petitioner had been pursuing his remedy before this Court.

8. The writ petition stands disposed off with the liberty aforesaid.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.10.2024
Transmission Date	NA

