

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 18142 of 2015

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- 1.1. Raju Prasad Son of Late Smt. Krishna Devi @ Krishna Gupta and Late Lallan Prasad, Resident of Mohalla - Gannipur, P.O. Ramna, P.S. Kazi Mohammadpur, District- Muzaffarpur.
- 1.2. Amar Nath Kumar Son of Late Smt. Krishna Devi @ Krishna Gupta and Late Lallan Prasad, Resident of Mohalla - Gannipur, P.O. Ramna, P.S. Kazi Mohammadpur, District- Muzaffarpur.
- 1.3. Mithilesh Kumar Son of Late Smt. Krishna Devi @ Krishna Gupta and Late Lallan Prasad, Resident of Mohalla - Gannipur, P.O. Ramna, P.S. Kazi Mohammadpur, District- Muzaffarpur.
- 1.4. Ajit Kumar Son of Late Smt. Krishna Devi @ Krishna Gupta and Late Lallan Prasad, Resident of Mohalla - Gannipur, P.O. Ramna, P.S. Kazi Mohammadpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The District Magistrate, Muzaffarpur
3. The Deputy Collector Land Reforms, Muzaffarpur
4. The Sub - Divisional officer, East, Muzaffarpur
5. The Circle officer, Mushahari, District - Muzaffarpur
6. Central School, Muzaffarpur, through the Principal, Central School, Muzaffarpur

... .. Respondent/s

Appearance:

For the Petitioner/s : Mr. Bhubneshwar Prasad, Advocate

For the Respondent/s : Mr. Prashant Pratap- GP-2

For KVS : Mr. Kumar Ravish, Advocate

Mr. Gopal Krishna Agrawal, Advocate



CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 09-01-2025

1. The present writ petition has been filed for quashing the order dated 27.02.2015, passed by the Collector, Muzaffarpur, in Case No.22 (Misc./2013-14) whereby & whereunder the petition filed by the original petitioner for removing the encroachment made over Khata No.543, Khesra No.1136, situated at Mohalla-Gannipur Ward No.28, District-Muzaffarpur has been rejected.

2. The brief facts of the case according to the petitioners are that the aforesaid land in question has been recorded as rasta in the Revisional Khatiyon, however, Central School, Muzaffarpur was constructed at Mohalla-Gannipur, Ward No.28, District-Muzaffarpur by encroaching upon the aforesaid plot no.1136 leading to obstruction of rasta of the local people. The learned counsel for the petitioners has assailed the impugned order dt. 27.2.2015, by referring to the report of Anchal Amin/ Anchal Adhikari Musari, who have stated that upon measurement of plot appertaining to Khata No.543, Khesra No.1136, it has been found that Central School has encroached upon the land of the road from the western side and made a boundary wall. Thus, it is submitted that the impugned



order dated 27.02.2015 is fit to be set aside.

3. Per contra, the learned counsel for the respondent-State has submitted by referring to the counter affidavit filed in the present case that the District Magistrate, Muzaffarpur, after hearing the parties at length, perusing the materials on record and going into the merit of the case has rejected the claim of the original petitioner/petitioners by a reasoned and a speaking order dated 27.02.2015. It is stated that the aforesaid plot no.1136 has been carved out from Cadestral Survey Plot no.242, 243 and 244 (part) which were raiyati land, admeasuring 19.53 acres and the same was acquired by the State Government, vide Acquisition Case No.65 of 67-68 and possession of the said land was taken over by the State Government in the year 1977 from the raiyats. Thereafter ITI, Muzaffarpur was constructed over 9.53 acres of the said 19.53 acres of land acquired by the State Government and from the remaining land, 7.67 acres of plot no.1136 was allotted for construction of Central School, Muzaffarpur, whereafter, it had erected boundary wall on the said land in the year 1986 and since then the said portion of land situated over plot no.1136 is in possession of Central School, Muzaffarpur. It is stated that the original petitioner/petitioners have raised dispute after about 25 years of the said boundary



wall having been constructed by the Central School, Muzaffarpur, hence the case put forth by the petitioners is frivolous and misconceived.

4. Per contra, the learned counsel appearing for the respondent-Central School (Kendriya Vidyalaya), Muzaffarpur has submitted by referring to the counter affidavit filed in the present case that Kendriya Vidyalaya Sangathan is an autonomous organization registered under the Societies Registration Act, 1960 and is fully financed by the Government of India with an object to cater to the educational needs of children of transferable Central Government employees including defense personnel by providing a common program of education, to develop Vidyalaya as a model school in the context of National goal of Indian Education, to initiate/promote experimentation in the field of education in collaboration with other bodies like the Central Board of Secondary Education, the National Council for Educational Research and Training, etc. and to promote national integration. It is submitted that Kendriya Vidyalaya Schools are run and operated on Government lands either donated or transferred by the respective State Government for operating Kendriya Vidyalayas. As far as the present dispute pertaining to the boundary wall in



question is concerned, it is submitted that total land admeasuring 7.67 acres was allotted to Kendriya Vidyalaya School by the State of Bihar way back in the year 1986-89 and to this effect letter dated 07.03.1989 was issued by the Commissioner, Tirhut Division, Muzaffarpur. In fact on 04.02.1989 land acquisition plan was prepared, wherein also no existing road/rasta is shown. The said 7.67 acres of land has been carved out of the plots no.242/243/244 and have been duly transferred to the Central School, Muzaffarpur after being acquired by the State Government as also after payment of compensation to the land owners, hence the case as put forth by the original petitioner/petitioners is fallacious and untruthful. Reference has also been made to a letter dated 07.03.1989, issued by the Commissioner, Tirhut Division, Muzaffarpur, wherein it has been stated that 7.67 acres of land has been handed over to Kendriya Vidyalaya, Muzaffarpur by the State Government. In fact, the State of Bihar had acquired 19.53 acres of land in the year, 1977, vide Land Acquisition Case No.65 of 67-68 for the purposes of Industrial Training Institute and possession was handed over to the said institute way back on 30.04.1977, however since ITI required only 10 acres of land, it transpired that excess land has been acquired, hence it was



resolved to transfer 7.67 acres of land to Kendriya Vidyalaya, Muzaffarpur in the year 1989, at a time when it was functioning from a rented accommodation. It is also submitted that the claim of the petitioners based on wrong revisional survey entry in favor of the Municipal Corporation qua plot no.1136 is of no value, inasmuch as the same cannot be evidence for the purposes of conferring right, title and interest over the same. It is also submitted that Kendriya Vidyalaya, Muzaffarpur is in possession of the aforesaid land in question since the year 1989 and as per the approved map of acquisition, the boundary wall was constructed by the Kendriya Vidyalaya, Muzaffarpur over CSP No.242/243/244 (portion) and the map also shows existence of boundary wall.

5. The Ld. counsel for the respondent-Kendriya Vidyalaya, Muzaffarpur has next contended that rasta/road is existing over adjacent RSS plot no.1130 and 1131 as also another passage is existing from RSS plot no.1130 and 1144, which is apparent from the report of the Anchal Amin dated 15.12.2010, enclosed by the petitioners as annexure-4, hence admittedly no road was existing over plot no.1136 since the beginning which is bounded by boundary wall since last 30 years. As far as the impugned order dt. 27.02.2015, passed by



the District Magistrate, Muzaffarpur is concerned, it is submitted that the same is a reasoned and a speaking order which has been passed after taking consideration the materials on record as also the documents pertaining to the plot in question, hence there is no infirmity in the same.

6. I have heard the learned counsel for the parties as also perused the materials on record and a bare perusal of the impugned order dated 27.02.2015 would show that plot no.1136 has been carved out of Cadestral Survey Plots No.242/243/244 (part) which was acquired by the State Government after observing all the formalities pertaining to land acquisition as also after initiating land encroachment proceedings vide Land Acquisition Case No.65 of 67-68 and then possession was taken after paying compensation to the Raiyats/land owners of the said plots in question. This Court further finds that though the land admeasuring 19.53 acres, acquired by the State Govt. was meant for the use of Industrial Training Institution, Muzaffarpur, however, out of the same 10 acres of land was reserved for other Government use and work and in the year 1986-89, since Central School, Muzaffarpur was to be constructed, out of the said 10 acres of land 7.67 land was transferred to the Central School, Muzaffarpur, whereafter the Central School,



Muzaffarpur was constructed over the said plot of land in the year 1989, although the boundary wall has been constructed in the year 1986 itself. The order dated 27.02.2015, passed by the Collector, Muzaffarpur also shows that neither the Municipal Corporation nor anyone else is having any right/title over the aforesaid RSP No.1136 and admittedly the original petitioner/petitioners had not objected to the construction of boundary wall in the year 1986-87 and only after 25 years a writ petition bearing CWJC No.20559 of 2010 was filed, hence the objections being raised by the petitioners are not only perverse but smacks of oblique motives. This Court further finds that the Municipal Corporation, Muzaffarpur has not come forward to allege that rasta is existing over RSP No.1136. At this juncture, it would be relevant to reproduce the relevant portion of the impugned order dated 27.02.2015, passed by the Collector, Muzaffarpur herein below:-

“उभय पक्षों के विद्वान अधिवक्ता एवं सरकारी अधिवक्ता को सुनने एवं अभिलेख में संधारित दस्तावेजों / साक्ष्यों के अवलोकन से मैं इस निष्कर्ष पर पहुँचता हूँ कि पुनरीक्षित भू-सर्वेक्षण खेसरा संख्या-1136 का निर्माण कैडेस्ट्रल सर्वेक्षण खेसरा सं0- 242, 243 एवं 244 के आंशिक क्षेत्रफल से हुआ है जिसे विधिवत भू-अर्जन की प्रक्रिया पूरी करते हुए श्रम एवं नियोजन विभाग, बिहार सरकार द्वारा मुजफ्फरपुर के औद्योगिक प्रशिक्षण संस्थान के



निर्माण हेतु अर्जित किया गया है। इसके अतिरिक्त यह भी तथ्य स्पष्ट है कि औद्योगिक प्रशिक्षण संस्थान, मुजफ्फरपुर के निर्माण कार्य के उपरान्त अर्जितभूमि 19.53 एकड़ में से अवशेष 10 एकड़ अन्य विभागीय कार्य हेतु सुरक्षित रखा गया। सरकार के निर्णय के अनुरूप अवशेष भूमि 10 एकड़ का व्यवहार अन्य किसी विभाग द्वारा आवश्यकता के अनुरूप किया जाना था। इसी बीच वर्ष 1986 में केन्द्रीय विद्यालय, मुजफ्फरपुर का निर्माण कार्य होना था एवं आवश्यकता के आधार पर उक्त अवशेष 10 एकड़ भूमि में 7.67 एकड़ भूमि केन्द्रीय विद्यालय, मुजफ्फरपुर को हस्तान्तरित की गयी है। हस्तान्तरित भूमि पर ही केन्द्रीय विद्यालय, मुजफ्फरपुर अवस्थित है तथा RSP 1136 पर नगरपालिका या अन्य किसी के अधिकार / स्वत्व के संबंध में कोई औचित्य स्पष्ट नहीं है। साथ ही पूर्व में कभी भी आवेदिका द्वारा। चहारदीवारी बनने के समय *Objection* नहीं किया गया। स्पष्टतः आवेदिका द्वारा 25 वर्षों से भी अधिक समय के बाद निहित स्वार्थ के कारण आवेदन दिया जाना प्रतीत होता है। ऐसी परिस्थिति में आवेदिका के आवेदन को खारिज करने का विधिक कारण परिलक्षित होता है। अतः आवेदिका की अपील को खारिज किया जाता है। सभी संबंधितों को सूचित करें।”

7. Considering the facts and circumstances of the case, this Court finds that alternative road/passage is existing at the place/ Mohalla in question by way of RSP No.1130,1131 and 1144, hence the people of the locality who have till date not raised any grievance are not having any problem or facing any inconvenience and it is the only original petitioner/petitioners



who with oblique motives have raised the issue after lapse of 25 years of construction of boundary wall of the Central School in question although now about 40 years have lapsed since boundary wall was constructed, hence the present writ petition is not only devoid of any merit, for the foregoing reasons but is also barred by the principles of delay and laches, hence is dismissed with an observation that such vexatious claim should not only be discouraged but also deprecated. This Court had though thought of imposing exemplary cost upon the original petitioner, however on account of her death, has restrained itself.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.02.2025
Transmission Date	NA

