

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.565 of 2022

In
Civil Writ Jurisdiction Case No.4129 of 2018

Manju Sinha, widow of Late Santosh Kumar Sinha, Resident of Village-
Harpur Lahori, Sri Ram Nagar Ward No. 12, P.O.- M.I.T., P.S. Yahiyapur,
District- Muzaffarpur.

... .. Appellant.

Versus

1. Muzaffarpur Municipal Corporation through Municipal Commissioner,
Muzaffarpur.
2. Municipal Commissioner, Muzaffarpur Corporation, District- Muzaffarpur.
3. The State of Bihar through Collector, Muzaffarpur.

... .. Respondents.

Appearance :

For the Appellant	:	Mr. Naresh Chandra Verma, Advocate.
For the State	:	Mr. Yogendra Pd. Sinha, AAG-7.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 20-02-2025

I.A. No.1 of 2025:

Heard I.A. No.1 of 2025 for condonation of a delay of
about 19 days in filing the present L.P.A. No.565 of 2022.

2. For the reasons stated in I.A. No.1 of 2025 read
with affidavit, delay of about 19 days in filing L.P.A. No.565 of
2022 stands condoned.

3. Accordingly, I.A. No.1 of 2025 stands allowed.

L.P.A. No.565 of 2022:

4. In the present L.P.A. No.565 of 2022, appellant has
assailed the order of the learned Single Judge dated 29.08.2022



passed in C.W.J.C. No.4129 of 2018.

5. The relief(s) sought for by the appellant in C.W.J.C. No.4129 of 2018 is read as under:

“For issuance of a direction to the Respondents to remove the Road and Nala from the Private Raiyati Land of the petitioner bearing plot No.139 of Khata No.26 of Mauza Harpur Lahori now Sri Ram Nagar ward No.12 under Ahiyar pur police Station of Muzaffarpur Town.”

6. The learned Single Judge has not interfered on the sole ground that C.W.J.C. No.4129 of 2018 is not maintainable in view of the relief(s) sought by the appellant in the writ petition (C.W.J.C. No.4129 of 2018).

7. Appellant's grievance is directing the Respondent authorities to remove the road and nala constructed over the private raiyati land of the petitioner bearing plot no.139, khata no.26, mauza-Harpur Lahori now Sri Ram Nagar situated at ward no.12 under the Ahiyar Pur police station, District-Muzaffarpur Town.

8. The relief(s) sought in the present lis is relating to



civil dispute to the extent that who has encroached the appellant's property or acquired the property of the appellant in the aforementioned plot. Therefore, civil dispute cannot be adjudicated under Article 226 of the Constitution as held by the Hon'ble Supreme Court in the case of **Swati Ferro Alloys Private Limited Versus Orissa Industrial Infrastructure Development Corporation (IDCO) and others**, reported in **(2015) 4 Supreme Court Cases 204**. Therefore, the appellant has not made out a case so as to interfere with the order of the learned Single Judge dated 29.08.2022 passed in C.W.J.C. No.4129 of 2018.

9. At this juncture, learned counsel for the appellant pointed out counter affidavit filed on behalf of the Circle Officer in respect of communication dated 16.08.2022 which supports the opinion of the Circle Officer in favour of the appellant. If it is so, appellant has a remedy before the Circle Officer or next higher authority insofar as redressing his grievance or else he has a remedy of filing civil suit before the concerned Civil Courts jurisdiction.

10. With the aforesaid observation(s), the present L.P.A. No.565 of 2022 stands disposed of, while affirming the order of the learned Single Judge dated 29.08.2022 passed in



C.W.J.C. No.4129 of 2018.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.02.2025.
Transmission Date	NA

