IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8495 of 2017

CNR No. BRHC010950792017

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Uma Shankar Prasad S/o late Ram Singhasan Prasad R/o Village- Sadar Bazar,Jagdishpur, P.O. P.S.- Jagdishpur, Distt- Bhojpur.

... ... Petitioner

Versus

1. The State of Bihar
2. Road Construction Department, Government of Bihar.
3. Sub Divisional Magistrate, Jagdishpur, Bhojpur.
4. Executive Officer, Nagar Panchayat, Jagdishpur, Bhojpur.
5. Police Inspector Cum Thanadhyaksh, Jagdishpur, Bhojpur.
6. Anchal Adhikari, Jagdishpur, Bhojpur.
7. Mohan Prasad Patwa, Son of late Ram Jatan Patwa
8. Madan Prasad Patwa Son of late Ram Jatan Patwa
9. Kamlesh Kumar S/o Mohan Prasad Patwa
10. Rajat Kumar Son of Madan Prasad Patwa
11. Raju Kumar Sons of Madan Prasad Patwa Respondents nos. 7 to 11 are R/o Village Jagdishpur ,Dular Gali, P.O. P.S. - Jagdishpur, Distt- Bhojpur.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Rewti Kant Raman, Advocate
For the State : Mr. Kautilya Kumar Prasad, GA-12

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

3 18-11-2026 Heard Mr. Rewti Kant Raman, learned counsel for the petitioner, and Mr. Kautilya Kumar Prasad, learned G.A.-12, appearing for the Respondent-State.

2. The present writ application has been filed seeking a direction to the respondents to give effect to the order dated 28.11.2016 passed by the Sub-Divisional Magistrate (S.D.M.), Jagdishpur, Bhojpur, in Case No. 02 of 2016 under Section 133

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of the Code of Criminal Procedure, 1973 (Cr.P.C.).

3. Learned counsel for the petitioner submits that, despite the aforesaid order, the authorities have failed to remove the encroachment from the land in question.

4. Learned counsel appearing for respondent No. 2 has filed a counter-affidavit, wherein, in paragraph 5, it has been stated as follows:

> *"5. That it is relevant to state here that the petitioner, in fact, seeks a direction for execution of the order passed under Section 133 Cr.P.C. There are provisions under Sections 134, 135 and 136 Cr.P.C. to be invoked in the event of non-compliance with an order passed under Section 133 Cr.P.C. It appears from the writ petition that the petitioner has not approached the S.D.M., Jagdishpur, for taking recourse to Sections 134, 135 and 136 Cr.P.C., despite the fact that the order passed under Section 133 Cr.P.C. has not been complied with by the encroachers."*

5. In view of the aforesaid stand taken by the State, it appears that the petitioner has an alternative remedy under Sections 134, 135 and 136 Cr.P.C. and may approach the S.D.M., Jagdishpur, Bhojpur, for appropriate action in accordance with the said provisions.

6. Accordingly, in view of the stand taken by the State, the present application stands disposed of with liberty to

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the petitioner to approach the S.D.M., Jagdishpur, Bhojpur, and seek appropriate relief by invoking the provisions of Sections 134, 135 and 136 Cr.P.C.

7. Any pending interlocutory application(s), if any, shall also stand disposed of.

(Rajesh Kumar Verma, J)

Gaurav Sinha/-

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