

(1995) 06 PAT CK 0002
In the Patna High Court
Case No : C.W.J.C. No. 8187 of 1994

Prakash Chandra Agrawal

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 30-06-1995

Acts Referred:

Citation : (1996) 1 BLJR 46

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Judgement

Narayan Roy, J.—Heard. Mr. Basudav Prasad, learned senior counsel appearing on behalf of the petitioner, and Mr. Rajendra Prasad, Standing Counsel No. 1, for the State.

2. By this writ application, the petitioner has prayed for issuance of a writ of mandamus commanding upon the respondents to stop from further construction of "Rain Basera", which is being constructed just in front of the boundary wall of the petitioner's "Show-room", situate on Dumka-Asam Road in the town of Dumka.

3. It is stated on behalf of the petitioner that in front of his boundary wall, the respondents are constructing "Rain Basera" and thereby they are obstructing the access of the petitioner to the High-way and they are also depriving the petitioner of the right of easement.

4. It is further stated that the petitioner has a right to use the High-way and in case the said "Rain Basera" is constructed in front of his show-room, he will be deprived of his rights.

5. A counter-affidavit has been filed on behalf of the State.

6. the allegations made in the writ application, in sum and substance have been accepted and it has only been stated in the counter-affidavit that by constructing the "Rain Basera" the access of the petitioner on the High-way is not stopped. No

categorical statement has been given in the counter-affidavit denying the facts alleged by the petitioner.

7. A series of photographs have been brought on record, marked as Annexures-1 series to this writ application. From these photographs, it appears that the construction is coming up just in front of the show-room of the petitioner.

8. The respondent State and its authorities are at liberty no doubt, to set up "Rain Basera", but not at the cost of an individual. It is abundantly clear from the averments made in the writ application that it is being done at the cost of the petitioner's interest and his very right is having jeopardised by putting walls for construction of the "Rain Basera" in front of his show-room.

9. In that view of the matter, the construction as such cannot be allowed to come up in front of the show-room of the petitioner.

10. In the facts and circumstances of the case, the respondent Nos. 2 to 4 are directed to remove the construction, which has been made in front to the show-room of the petitioner for with.

11. It is further directed that in future no such construction should be done in front of the house of an individual and they can done so in a place suitable for it, causing no hindrance to the public at large.

12. This writ application is, accordingly disposed of.