
(1996) 09 PAT CK 0011
In the Patna High Court
Case No : C.W.J.C. No. 9119 of 1996

Sanjeev Prasad and Another	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 25-09-1996

Acts Referred:

Citation : (1997) 1 PLJR 24

Hon'ble Judges : S.N. Mishra, J

Bench : Single Bench

Advocate : Najmul Hoda, for the Appellant; Mayanand Jha, for the Respondent

Judgement

S.N. Mishra, J.—Learned Counsel seeks permission to delete the name of Petitioner No. 2 Sajjal Prasad son of Krishna Madhav Prasad. He is permitted to do so. Accordingly, this writ application is confined only on behalf of Petitioner No. 1 Sanjeev Prasad son of Nirmal Lal Prasad.

2. Heard learned Counsel for the Petitioner and the State Respondent.

3. In this writ application the prayer of the Petitioner is for a direction to the Respondent authorities not to demolish the part of the house of the Petitioner Sanjeev Prasad aforesaid. It is submitted that the Petitioner has not encroached any portion of the public land, as alleged by the Respondent authorities. According to the learned Counsel there has been two survey in the town of Kishanganj in the year 1920 and in the year 1986. According to the learned Counsel, the latest survey is to prevail. In support of his contention learned Counsel has relied upon the decision in the case of Shaikh Banka Vs. Shaikh Bartul and Others, . The submission of the learned Counsel seems to be prima facie correct. Accordingly, I direct the Petitioner to file a comprehensive representation before the Respondent District Magistrate, Kishanganj, within two weeks, who will get the alleged encroachment measured by a competent person in presence of the Petitioner, keeping in view the latest survey of 1986. The District Magistrate will than dispose of the representation in accordance with law,

by a speaking order, as early as possible, preferably within two weeks from filling of such representation. Pursuant thereto, if any encroachment is found, the Petitioner shall be given an opportunity, at first, to remove the same within 48 hours therefrom failing which it will be open for the Respondent authority to remove the encroachment to the extent found on such measurement, and cost, if any, shall be realised from the Petitioner. Till then, the status quo, as of today, shall be maintained. It is made clear that if the encroachment is found on the public road and the flanks, the Respondent authority will remove the same forthwith without complying with the direction aforesaid.

4. This disposes of this writ application.