

(2010) 04 JH CK 0089
In the Jharkhand High Court

Uma Kant Sharan, Umesh Chandra Vidyarthi, Paresh
Mukherjee and Ruma Roy

APPELLANT

Vs

The State of Jharkhand, Administrator, Ranchi Regional
Development Authority, Administrator, Ranchi Municipal
Corporation and Officer-in-charge

RESPONDENT

Date of Decision : 19-04-2010

Acts Referred:

Citation : (2010) 04 JH CK 0089

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Counsel for the petitioners informs that though, a joint sitting of the disputing parties was held and certain proposals were also mooted by both parties, but a tangible and mutually acceptable solution could not be arrived at, in view of the fact that the intervenors do not appear to agree with the proposal of the petitioners for erection of a gate to regulate the timing for general flow of traffic on the disputed road.

2. As explained by the learned Counsel for the respondent municipal corporation, admittedly, the disputed road was part of a private land of one Mr. Sahay, a resident of Dr. Mukti Sharan Lane, who had parted with the portion of his land for the purpose of using the same as a link road between the residents of Dr. Mukti Sharan Lane living on one side of the road and the residents of New Barahai Toli Road, living on the other side of the road. Apparently, the road was never intended to be used as a private road and not as a road for access to the general public. It however appears that in course of time, the road began to be used not only by the members of the colonies located on both sides of the road, but also by the general public and on account of inconvenience and disturbance felt by the residents of the colony in which petitioners reside, the petitioners had sought to impose restriction on the use of the road.

The intervenors who happen to be residents of the other colony, insist that the

road to be allowed to be continuously used as a public road and as a link road between Hazaribagh road and Purulia road, since such access has been continuing for several years.

3. The dispute apparently involves the actual assessment of the nature of the road as to whether, it was intended for the use of the members of the two colonies living on either ends of the road. From the submission of the learned Counsel for the respondent municipal corporation, after considering the entire aspect, the municipal corporation had also given a proposal to erect a gate on extreme ends of the road for regulating vehicular traffic and timings of the use of the road, but this proposal has been objected to by the intervenors.

4. From the nature of the dispute as it emerges, the same assumes a disputed question of fact. The declaration regarding the nature of the road has to be first made by the competent Civil Court after conducting a proper spot inquiry and after considering the history and the circumstances under which the road came to be constructed and used and the intention for which road was constructed.

5. Considering the above facts and circumstances, this application is disposed of with a liberty to the petitioners to approach the Civil Court of competent jurisdiction for redressal of their grievances.