

GPI
10/2/14

IN THE HIGH COURT OF JUDICATURE AT PATNA

(MISCELLANIOUS JURISDICTION CASE)

M.J.C. NO. of 2014

Bijay Kumar Gupta Petitioner.

VERSUS

The State of Bihar and others Opposite Parties.

Sub:- Contempt Matter.

I N D E X

Sl. No.	Particulars	Pages
1.	An application under sections 11 & 12 of Contempt of Court and read with Article 215 of the Constitution of India.	1-7
2.	Annexure-1: A true photo copy of order dt. 16.10.12	8-9
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4.	Annexure-3 A true photo copy of the Money receipt dt. 29.11.13	12
5.	Annexure-4 A true photo copy of the application dt. 10.02.14	13
5.	VAKALATNAMA.	

To,

The Hon'ble Ms. Justice, Rekha M. Doshit, the Chief Justice of the High Court of
Judicature at Patna and her companion Justices of the said Hon'ble Court.

The humble application on behalf
of petitioner above named.

Most Respectfully Sheweth:-

1. That this contempt application is being filed for non compliance of the order dt. 16.10.12 passed by Hon'ble Mr. Justice Shailesh Kumar Sinha (the then) in CWJC No.5227/2011, by which directed to the petitioner filed application before Opposite party no. 3 Executive Officer, Nagar Parishad, Madhepura, within a period of four weeks, same shall be considered and disposed of with accordance with law expeditiously after hearing concern party and further initiate a contempt proceeding against the Opposite party non compliance of the order dated 16.10.2012.

A true photo copy of order dt. 16.10.12 is annexed as Annexure - 1 to this application.

2. That connected writ application has been filed for directing respondent / Opposite party to take action on the petition filed by father of the petitioner for measurement of his land situated within the jurisdiction of District Madhepura, Nagar Parishad and further for a direction to the respondent that till the measurement work is not completed by them there should not be any work on the Plot in question as also directed by the S.D.O., Madhepura.

3. That case of the petitioner in the writ application was that father of the petitioner purchased land of Jamabandi No. 407, Ward No. 19, Thana No. 65 and Tauzi No. 5452, in question from Manindra Jha and Amrendra Jha both sons Late Banmali Jha vide Kewala No. 8969, 8970 and 6700 dt. 28.07.81 and 16.06.83.

4. That further case of the petitioner is that father of the petitioner filed an application on

24.12.2003 before the Opposite party no. 3 to the extend that he sold the land another person situated in the Ward No. 12/14, Mauza - Madanpur, District Madhepura north of resident of Dr. J.B. Singh may be measured by Amin, so that the purchaser may be able to get their shares properly but no action has been taken and further case of the petitioner is that father of the petitioner sold part of the portion of the land in question to Shobhakant Yadav Area 1½ Kattha and to Rana Yadav Area's 1½ Katha and rest 2 Katha is in possession of the petitioner and 0.5 feet has been left for passage / way.

5. That one Pradip Kumar Krith, O.P. No. 4 started construction work inside the Plot in question without any proper measurement of land and some portion of land of the petitioner left for passage and some portion of land the purchaser from father of the petitioner have been illegally encroached by respondent no. 4 by constructing boundary wall.

6. That further case of the petitioner is that one Shobhakant Yadav (one of the purchaser from father of the petitioner) agree with the encroachment made by the O.P. No. 4 moved before Sub Divisional Officer, Madhepura bearing Misc. No. 57/06 has been initiated on that basis against the petitioner father of the petitioner and respondent no. 6, learned S.D.O., Madhepura passed an order and restraining the parties including O.P. No. 4 to not make any further consideration and that order has also been communicated to local Police station, in notice on the basis of order passed in Misc. Case No. 54/06 by this Madhepura Police Station on 15.04.09 has been issued and restraining to make any construction .

7. That neither the construction stopped nor any measure at level of Opposite party no. 3 to make the measurement done, on the plot in question, if petition filed by the petitioner before O.P. No. 3 for taking action measurement of the Plot of the disputed land, petitioner also filed an application before District Magistrate, Madhepura on 04.06.09 for taking necessary action but no action has been taken by the respondent opposite parties.

8. That in pursuance of the order of the Hon'ble Court dt. 16.10.2012, petitioner filed an application on 05.11.2012 and 10.01.13 for measurement of the alleged land but respondent authority did not consider as yet.

A true photo copy of application on 05.11.2012 and 10.01.13 are annexed as Annexure - 2 series to this petition.

9. That it is admitted fact is that the petitioner has already been deposited Rs. 500/- for cost of the measurement by the Opposite party, Nagar Parishad, Madhepura, in spite of that no measurement was held by the Nagar Parishad Madhepura, in the result petitioner suffered without his fault.

10. That it is needful to stated here that the father of the petitioner namely Late Ram Pratap Sah, S/o Late Ram Khelawan Sah, purchase from Amrendra Jha, S/o Late Banwari Jha by the Deed No. 6016 of 1981 bearing Khata No. 59, Khesra No. 645, Area 2 Katha 10 dhursand subsequently, also purchased 10 dhur land from Shri Amrendra Jha bearing Deed No. 9468 / 1983 by sale deed dt. 20.06.83 bearing Khata No. 425, Khesra No. 643, Area 10 dhurs, of the Tauzi No. 494, Thana No. 64, District Madhepura.

11. That the father of the petitioner have already been deposited the fee for the measurement of Amin before Nagar Parishad, Madhepura but respondents/ opposite parties have not measured the land of the petitioner till today without any clausable reason.

12. That the Opposite parties have been obliged some local persons including the then M.P. of the Sharad Yadav and others, who have been encroached the land of the petitioner of the Khata No. 425, Khesra No. 643, Area 3 Katha ,said very land is purchased land by the father of the petitioner from Amrendra Jha by the Sale deed no. 8971 of 1981, for which petitioner filed application before the Officer In-charge, Madhepura, D.G.P., Bihar, Patna., District Magistrate, S.P .Madhepura, but no action has been taken. Not only while petitioner

filed application before Executive Officer, Madhepura, Nagar Parishad, thereafter, issued a notice to the petitioner and directed to submit fee of the Amin for measurement of the land and petitioner has been deposited the fee on 29.11.2013 worth of Rs. 500/- but no measurement held as yet.

A true photo copy of the Money receipt dt. 29.11.13 is annexed as Annexure - 2 to this application.

13. That Opposite party no. 3 is adamant to not comply the order of this Hon'ble Court, hence he prosecute under the contempt of the Court Act.

14. That order of this Hon'ble Court have also violated by the O.P. No. 3

15. That the opp. parties have no regard the order passed by this Hon'ble Court and they are deliberately violating the order of this Hon'ble Court.

16. That on the above facts and circumstances of the case, petitioner is deserve relief by this Hon'ble Court.

17. That petitioner has not move before this Hon'ble Court any time earlier for the relief sought for in this application except and otherwise mentioned in this application.

It is, therefore, prayed that your lordships may graciously be pleased to issue notice to show cause as to why the contempt be not initiated against the opp. parties for violation of the order of this Hon'ble Court and after cause being shown if any, and after hearing the parties pass such other order/orders as your lordships may deem fit and proper in the facts and circumstances of the case.

And for this the petitioner shall ever pray.

filed application before Executive Officer, Madhepura, Nagar Parishad, thereafter, issued a notice to the petitioner and directed to submit fee of the Amin for measurement of the land and petitioner has been deposited the fee on 29.11.2013 worth of Rs. 500/- but no measurement held as yet.

A true photo copy of the Money receipt dt. 29.11.13
is annexed as Annexure - 3 to this application.

13. That petitioner filed an application on 10.02.14 for measurement of the land but respondent authority have not measure the land of petitioner as yet.

A true photo copy of the application dt. 10.02.14
is annexed as Annexure - 4 to this application.

14. That Opposite party no. 3 is adamant to not comply the order of this Hon'ble Court, hence he prosecute under the contempt of the Court Act.

15. That order of this Hon'ble Court have also violated by the O.P. No. 3

16. That the opp. parties have no regard the order passed by this Hon'ble Court and they are deliberately violating the order of this Hon'ble Court.

17. That on the above facts and circumstances of the case, petitioner is deserve relief by this Hon'ble Court.

18. That petitioner has not move before this Hon'ble Court any time earlier for the relief sought for in this application except and otherwise mentioned in this application.

It is, therefore, prayed that your lordships may graciously be pleased to issue notice to show cause as to why the contempt be not initiated against the opp. parties for violation of the order of this Hon'ble Court and after cause being shown if any, and after hearing the parties pass such other order/orders as your lordships may deem fit and proper in the facts and circumstances of the case.

And for this the petitioner shall ever pray.

AFFIDAVIT

I, Bijay Kumar Gupta, aged about 56 years S/o Late Ram Pratap Sah, R/o Ward No. 23, Station Road, P.S. Madhepura, District Madhepura, do hereby solemnly affirm and state as follows:-

1. That I am petitioner in this case and as such am well acquainted with the facts and circumstances of the case.
2. That I have gone through the contents of this application and have fully understood the same. The statements made in paragraphs are true to my knowledge and information derived from the records of the case and rest are by way of submission before this Hon'ble Court.
3. That the annexures are true/photo copies of the originals.

Bijay Kumar Gupta

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5227 of 2011

Bijay Kumar Gupta S/O Late Ram Pratap Sah R/O Ward No. 23. Opposite
Meghraj Petrol Pump, Station Road, Madhepura, P.S.- Madhepura, District-
Madhepura

..... Petitioner/s

Versus

1. The State Of Bihar
 2. The District Magistrate Madhepura At Madhepura, District- Madhepura
 3. The Executive Officer, Nagar Parishad, Madhepura, District- Madhepura
 4. Pradip Kumar Krihi S/O Late Subash Yadav R/O Vill. + P.O.- Bidigrami,
P.S.- Bihariganj, Distrit- Madhepura
 5. The Officer-In-Charge Madhepura Police Station, Madhepura, District-
Madhepura
 6. The Sub-Divisional Officer, Madhepura, District- Madhepura
- Respondent/s

Appearance :

For the Petitioner/s : Mr. Chaudhary Prem Kumar Thak
For the Respondent/s : Mr. Girija Shankar Pd Gpl

CORAM: HONOURABLE MR. JUSTICE SHAILESH KUMAR SINHA
ORAL ORDER

2 16-10-2012

Heard learned counsels for the petitioner and the
State.

The grievance of the petitioner is that he had made
an application before the Executive Officer, Nagar Parishad,
Madhepura for demarcation of his holding and had deposited
the requisite fee with the same, however, the same has not
been done as yet.

After some argument, Mr. Ranjan Kumar Jha,
learned counsel appearing for the petitioner submits that
petitioner proposes to file a fresh application before the
respondent no. 3 stating the relevant detail of his claims.

In view of the above, in case such application is filed
within a period of four weeks as required under the Rule of

Nagar Parishad, the same be considered and disposed of in accordance with law expeditiously after hearing the concerned parties.

The writ application accordingly stands disposed of.

Manish/-

sd/ (Shailesh Kumar Sinha, J)

IDENTIFIED TO BE TRUE PHOTO COPY
S.K. Mulchanji
For Joint Registrar (J)
Patna High Court
Dated 16/10/12

A. Kumar
sd/
16/10/12

COPY

सेवा में,

कार्यपालक पदाधिकारी महोदय,

नगर परिषद्, मधेपुरा।

विषय— माननीय उच्च न्यायालय के दिनांक 16.10.12 के आलोक में पुनः नापी हेतु आवेदन द्वारा अनुरोध के संदर्भ में।

महाशय,

निवेदन है कि माननीय उच्च न्यायालय के दिनांक 16.10.2012 के आलोक में श्रीमान् के समक्ष नापी हेतु आवेदन के माध्यम से अनुरोध करना है कि —

श्रीमान् के समक्ष मेरे पिता स्व० राम प्रताप साह के जीवन काल, में ही अनेकों बार यथा दिनांक 24.12.03 एवं दिनांक 03.08.2001 को उचित शुल्क क्रमशः 250/- एवं 100/- देकर आवेदन के साथ निवेदन किया गया। खाता नं० 59, खेसरा नं० 645, एरिया 2 कट्टा 10 धूर।

कि वाद पश्चात् दिनांक 21.05.08 को मेरे स्वयं द्वारा भी श्रीमान् को आवेदन सहित रसीद 250/- देकर करवायी गई जिसके बावजूद भी कोई अपेक्षित कार्यवाही नहीं की गई।

कि अंततः हमें माननीय उच्च न्यायालय के समक्ष रिट याचिका दायर करनी पड़ी। जिसपर माननीय न्यायालय द्वारा पुनः आवेदन देकर संबंधित प्रक्रिया को अपनाने का निर्देश दिया गया।

कि आदेश के आलोक में नापी हेतु करने वाले जमीन एवं आस-पास के जमीन जिसे मेरे स्व० पिता द्वारा विक्रय किया गया है आवेदन के साथ संलग्न किया जा रहा है।

अतः श्रीमान् से प्रार्थना है कि उक्त आवेदन के आलोक में संबंधित कार्यवाही कर हमें कृतार्थ करने की कृपा प्रदान की जाय इसके लिए श्रीमान् का सदा आभारी रहूँगा।

निवेदक

दिनांक — 05.11.2012

(विजय कुमार गुप्ता)
पिता — स्व० राम प्रताप साह,
स्टेशन रोड, वार्ड नं० — 23,
मधेपुरा।

सेवा में,

कार्यपालक पदाधिकारी महोदय,

नगर परिषद्, मधेपुरा।

विषय— माननीय उच्च न्यायालय के दिनांक 16.10.12 के आलोक में पुनः नापी हेतु आवेदन द्वारा अनुरोध के संदर्भ में।

महाशय,

निवेदन है कि माननीय उच्च न्यायालय के दिनांक 16.10.2012 के आलोक में श्रीमान् के समक्ष नापी हेतु आवेदन के माध्यम से अनुरोध करना है कि —

श्रीमान् के समक्ष मेरे पिता स्व० राम प्रताप साह के जीवन काल, में ही अनेकों बार यथा दिनांक 24.12.03 एवं दिनांक 03.08.2001 को उचित शुल्क क्रमशः 250/— एवं 100/— देकर आवेदन के साथ निवेदन किया गया। खाता नं० 59, खेसरा नं० 645, एरिया 2 कड्डा 10 धूर।

कि वाद पश्चात् दिनांक 21.05.08 को मेरे स्वयं द्वारा भी श्रीमान् को आवेदन सहित रसीद 250/— देकर कष्टवायी गई जिसके बावजूद भी कोई अपेक्षित कार्यवाही नहीं की गई।

कि अंततः हमें माननीय उच्च न्यायालय के समक्ष रिट याचिका दायर करनी पड़ी। जिसपर माननीय न्यायालय द्वारा पुनः आवेदन देकर संबंधित प्रक्रिया को अपनाने का निर्देश दिया गया।

कि आदेश के आलोक में नापी हेतु करने वाले जमीन एवं आस-पास के जमीन जिसे मेरे स्व० पिता द्वारा विक्रय किया गया है आवेदन के साथ संलग्न किया जा रहा है।

अतः श्रीमान् से प्रार्थना है कि उक्त आवेदन के आलोक में संबंधित कार्यवाही कर हमें कृतार्थ करने की कृपा प्रदान की जाय इसके लिए श्रीमान् का सदा आभारी रहूँगा।

निवेदक

दिनांक — 10.01.2013

(विजय कुमार गुप्ता)

पिता — स्व० राम प्रताप साह,

स्टेशन रोड, वार्ड नं० — 23,

मधेपुरा।

विशेष— (1) आवश्यकता पड़ने पर श्रीमान् के आदेश पर हमेशा साक्षात्कार हेतु तत्पर रहूँगा। दूरभाष पर संपर्क हेतु मोबाईल नं० दिया जा रहा है— 9431254889, 9801581772

(2) उक्त आवेदन को दि० 05.11.12 को भी श्रीमान् को समर्पित किया जा चुका है जिसपर अभी तक कोई अपेक्षित कार्यवाही नहीं हो पायी है।

ANNEXURE - 9

ANNEXURE - 9

31

Municipal Form No. XXIX Misc. Receipt (Rule 97)

मधेपुरा नगर परिषद्

No. 3102

Date: 29/11/13

RECEIVED From: विजय उठ सुभा फे. स्व. शम प्रसाद (आर. वार्ड-23)

Rupees (in words) ... मोठ पंच सौ 500 मात्र

on account of ... नगी डी.ए.

Rs. 500.00


Cashier
मधेपुरा नगर परिषद्

सेवा में,

कार्यपालक पदाधिकारी महोदय,

मधेपुरा नगर परिषद।

विषय— नापी हेतु आदेश के पश्चात् कराये गये रसीद के बावजूद भी अभी तक नापी की प्रक्रिया सम्पन्न कराने की कोई प्रक्रिया नहीं होने के संदर्भ में।

महाशय,

दिनांक 29.11.2013 को श्रीमान् के आदेश पर हमने नगर परिषद के सक्षम अधिकारी से नापी हेतु रसीद मो० 500/- देकर करवायी तथा नापी करने वाले जमीन संबंधित सभी कागजात भी श्रीमान् को दिये गये आवेदन के साथ संलग्न कर दिया था।

कि नापी हेतु जमीन का (1) खाता नं० 59, खेसरा (पु०) 645, रकवा 52110 दो कट्टा 10 धूर, (2) खाता 425, खेसरा पुराना 643, रकवा 5110, दस धूर (3) खाता नं० 425, खेसरा पुराना 643, रकवा 53 तीन कट्टा आवेदन दिया, साथ ही रसीद भी कटवा ली जिसकी नापी अभी तक नहीं सम्पन्न हो पायी है।

ज्ञातव्य है कि उक्त जमीन को प्रभावशाली व्यक्तित्व रखने वाले व्यक्तियों द्वारा अपने कब्जे में कर लिया गया है और अपने प्रभाव में आकर नापी की प्रक्रिया नहीं करवाने की मंशा रख रहे हैं।

अतः श्रीमान् से करबद्ध प्रार्थना है कि सक्षम एवं स्वच्छ चरित्रवाले वाले वेदाग अधिकारीगण एवं अमीन द्वारा नापी करवा कर हमारे जमीन की वास्तविक स्थिति को उजागर करने की असीम कृपा प्रदान की जाय तथा बाद में उसे अधिकृत किये जमीन को हमें प्रदान करने की भी प्रक्रिया को सम्पन्न करवाया जाय, इसके लिए श्रीमान् का सदा आभारी रहूँगा।

निवेदक,

(विजय कुमार गुप्ता)

पिता स्व० राम प्रताप साह,

वार्ड नं० 23, स्टेशन रोड, मधेपुरा।

दिनांक – 10.02.2014