

आदेश की क्रम संख्या और तारीख	<b>आदेश और पदाधिकारी का हस्ताक्षर</b>	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख के साथ																				
07-02-2019	<p style="text-align: center;"><b>In The Court Of: Land Reforms Deputy Collector, Arwal.</b>  <b>Case No. 31/ 2018-19</b>  <b>Avdhesh Sharma-applicant</b>  <b>Vrs.</b>  <b>Ram Vinay Sharma &amp; Other- opposite parties</b>  <b>Present- Rakesh Kumar,DCLR</b>  <u><b>Learned Advocate of applicant</b></u>  1. Sri. Arun Kumar .  2. Sri. Amrendra Kumar.  <u><b>Learned Advocate of OP</b></u>  1. Sri. Binod Kumar Singh.  2. Sri. Krishna Kant.  3. Sri. Devendra Mishra.</p> <p style="text-align: center;"><b><u>ORDER</u></b></p> <p>Both the parties appeared at the time of hearing. The present case is related to</p> <p style="text-align: center;"><b>Schedule</b></p> <table border="1" data-bbox="351 1041 1324 1859"> <thead> <tr> <th>Khata</th> <th>Plot</th> <th>Rakwa A-D</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>09</td> <td>623</td> <td>0-09</td> <td>N-Niz. S-Survey Gali. E-Deo Bali Kahar. W-Op &amp; others</td> </tr> <tr> <td>09</td> <td>622</td> <td>0-30</td> <td>N-Niz. S-Niz. E-Suraj Kahar. W-Op &amp; others</td> </tr> <tr> <td>17</td> <td>621</td> <td>0-05</td> <td>N-Niz. S-Niz. W-Lala Sharma. E-Bharat Sharma.</td> </tr> <tr> <td>17</td> <td>620</td> <td>0-07</td> <td>N-Ranjay Sharma. S-Niz. E-Madhesh Sharma. E-Mandutt Sharma.</td> </tr> </tbody> </table>	Khata	Plot	Rakwa A-D	Boundary	09	623	0-09	N-Niz. S-Survey Gali. E-Deo Bali Kahar. W-Op & others	09	622	0-30	N-Niz. S-Niz. E-Suraj Kahar. W-Op & others	17	621	0-05	N-Niz. S-Niz. W-Lala Sharma. E-Bharat Sharma.	17	620	0-07	N-Ranjay Sharma. S-Niz. E-Madhesh Sharma. E-Mandutt Sharma.	
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**Mauza—Ekraunja, PS+ Anchal-Bansi, Dist-Arwal.**

Learned advocate of applicant submitted that land mentioned in schedule & in addition to it, plot No-624 is the khatiyani & marusi land of applicant. He informed that applicant's ancestor were late Saudagar Singh who had two sons namely Late Shalok Singh & Late Gandhi Jee. However, late Shalok Singh had four sons namely Late Ramkrit Sharma, Avdhes Sharma (Applicant), Madhesh Sharma & Ram Pravesh Sharma. Learned advocate informed that in plot No-623, residential house of applicant exists and in eastern side is plot No-624. However, he claimed that in a passage from North to South for common men exists in between land of plot of 623 & 624, since last 200yrs. However, he alleged that opposite parties namely Ram Vinay Sharma (op-01), Brij Kishor Sharma (op-02) S/O Late Binda Choubey alias Ram Singhsan Sharma, Ashok Kumar (op-03), Ameet Kumar (op-04), Sandu Kumar (op-05), Manish Kumar (op-06) all S/O Brij Kishor Sharma & Nand Sharma (op-07) S/O Late Bhagwat Sharma has created hindrance at the common passage by filling the soil on the way as per their convenience at spot. Learned advocate said that this act of op's has blocked the applicant's drainage and it will be troublesome during rainy reason. Learned advocate alleged that op's are aggressive in nature & misuses their muscle power against applicant. However, he accepted the fact mentioned by op No-07 that applicant has filed a case U/S 147 of crpc in court of SDM, Arwal. However,

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learned advocate said that case filed in court of SDM, Arwal is for passage at spot and it has nothing to do with measurement of his land. Finally learned advocate pleaded for measurement & demarcation as well as pillaring of said land. He also wants declaration of right on the disputed land.

Learned advocate Sree Krishna Kant has submitted written statement on behalf of op-01 to op-06 that present case filed by petitioner is not maintainable either in law or in & facts. He alleged that case has been filed to harass op's. He claimed that ancestor of op's had acquired land through two registered sale deed dated 24.05.1957 respectively  $8\frac{1}{4}$  dec +  $17\frac{3}{4}$  dec = 26 desimals in plot No-624 in khata 09 from Maheshwar Pandit, Sidheshwar Pandit & Rameshwar Pandit. However, learned advocate said that op's doesn't claim even a single inch of plot No-622 and 623, which is being claimed by applicant though his title is not purely established in said plots. Learned advocate refuted the claim of applicant as he asked for declaration of right which is beyond jurisdiction of this court as per order of Honourable High Court Patna vide order 2014 volume-III PLR Page No-281. He also refuted the allegation of applicant that any common passage (Rasta) has been blocked or filled up with soil by these opposite parties. Learned advocate has drawn attention towards C.S. per claim of applicant. So learned advocate argued for dropping this case.

Learned advocate Sri Devendra Mishra submitted

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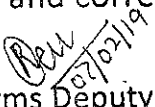
on behalf of Nand Sharma (op-07) and said that applicant is falsely claiming the disputed land as khatiani & ancestral. He said that as per khatiyani plot No-622 is in name of Gokul Koeri S/O Late Chaman Mahto & khatiyani of plot No-620 & 521 stands jointly in name of Judagir Mahto & Horil Mahto both S/O Late Nemdhari Mahto. So until applicant proves his claim over disputed land based on documents, he doesn't have any locus standi in this case. Learned advocate said that public passed through existing passage between plot No-623 & 624 from South to North, but it was not a public land, infact it is raiyati land. Learned advocate said that house of petitioner is built in plot No-623 but petitioner should accept that his house stands partly in survey Gali on both the sides and encroached upon main "Gali" of village and due to this encroachment, drainage system of whole village has been disturbed including this respondent. Learned advocate has advised to petitioner to remove the encroachment done by himself and it will clear all hindrance related to drainage including applicant as well as co-villagers. He claimed that common passage between plot No-624 & 623 existed as per mutual agreement among ancestors of both the parties but he denied that respondents has blocked the passage by putting heap of mud & soil. Learned advocate is of view that disputed land involves complex question of title and in this connection he informed that applicant has filed a case U/S 147 of crpc in court of SDM, Arwal. So

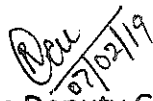
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he was of view that applicant can not filed two cases in two different courts on same land. So learned advocate finally pleaded for dismissal of the case.

Heard the learned advocates of concerning parties and perused the documents available on record. Applicant as well as op has submitted photo copies of kewala as well as its translation in Hindi. Further, letter No-876 (8) /Rev dated 27.11.2018 of principal secretary, Dept of Revenue, Patna Bihar is available on record. However, op No-07 has submitted photocopy of case No-21/2018 filed by applicant U/S 147 of crpc in court of SDM, Arwal. So after looking these documents it can be said that case filed by applicant in court of SDM, Arwal is related to clearance of passage. However, if applicant wants to get his area of land measured and demarcated on basis of his documents then this court can not disallow as per arguments of op's . So this court directs applicant to approach circle officer Banshi for measurement & demarcation of his land mentioned in schedule based on documents. Further, circle officer Banshi is directed to pass speaking order after instituting measurement case based on this order.

Dictated and corrected

  
Land Reforms Deputy Collector  
Arwal

  
Land Reforms Deputy Collector  
Arwal.

