

In the Court of Sub Judge – II, Patna City

T.S. - 184/13

06-08-2021

Record is produced for hearing. Heard both parties through virtual mode. Learned AGP submitted that plaintiff do not have *locus standi* to file this Title suit in individual capacity as the letter on which entire suit is brought by the plaintiff is in the name of Bar Association, Patna City Civil Court. And if at all necessary, this suit should have been brought by Bar Association. Further, learned AGP has submitted that the concern letter file by plaintiff is sent by District Magistrate to Executive Engineer Ganga Bridge Pool Pariyojana, Gulzarbagh, Patna for allotment but there is nothing on record showing that actually the suit land was allotted in favour of plaintiff by Executive Engineer Ganga Bridge Pool Pariyojana, Gulzarbagh, Patna. Learned AGP has also submitted that there is nothing on record suggesting that Bar Association, Patna City Civil Court, has actually allotted the suit land to the plaintiffs. Further learned AGP has submitted that the plaintiff are encroacher of government suit property and said suit government property is required for building bridge of national important. Learned AGP has also submitted that defendant 1, 2, 3 do not want to adduce any document or judgement in support of their contention. Learned AGP has expressly stated that he is only representing for defendant no. 1 to 3 and with regard to defendant no. 4 he has not representing.

Learned Advocate for plaintiff has stated that the plaintiffs have *locus standi* has being active member of Bar association Patna City Civil Court and has been practicing in City Civil court for decades. Learned advocate for plaintiff has also stated that plaintiff along with many members of Bar are practicing at City Civil Court and are at the verge of being thrown out forcefully by administration. Learned advocate for plaintiff has also submitted that a writ petition in this regard is also pending before Hon'ble Patna High Court. Learned advocate for plaintiff has further prayed to grant sufficient time for filling document and judgement in support of their contention. Further, learned advocate for plaintiff has submitted that the concerned A.G.P has been representing all defendants since beging of the suit but now learned AGP wrongfully has submitted that he is only representing defendant no. 1 to 3.

Heard, both parties. Perused the record. It transpires that plaintiff had

previously filed a petition u/o 39 rule 1 & 2 and section 151 CPC in year 2013, upon which, rejoinder on behalf of defendant no. 4 and 6 is filed and is on record. Later on, it transpires that plaintiff did not contest the said injunction petition and had marked “Not pressed” and accordingly the said petition was dismissed on 22.04.2014. Again plaintiff had filed petition u/o 39 rule 1 & 2 and section 151 CPC on 23.07.2021. The plaintiff has filed this petition stating to be in continuation with earlier petition filed in 2013 but same is not true, as earlier petition has been already dismissed due to not press in year 2014 itself. Further, learned AGP is specially denied to represent defendant no. 4 to 6 and defendant no. 4 to 6 are absent for the proceeding. From perused on record, it also transpire that no show cause notice in regard to plaintiff petition dated 23.07.2021 is filed with respect to defendant no. 4 to 6. Further Learned AGP has specifically denied to represent to defendant no. 4 to 6 and defendant no. 4 to 6 or absent from the proceeding. In light of covid – 19 pandemic prevailing over the country and several direction passed by Hon'ble High Court Patna and in light of sound principal law “audi alteram partem”, the court is opinion that it would not be interest of justice to pass any order in absence of defendant 4 to 6. Accordingly, in light of above discussion, plaintiff is hereby directed to filed requisites for show cause on defendant no. 4 to 6. Plaintiff is also directed to file available document related with writ petition pending before Hon'ble Patna High Court. Put for receiving S/R of Show cause and filing of document by plaintiff and hearing on 27.08.2021.

Dictated

Succ. Sub Judge – II