

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No.793 of 2013

Maya Rani Mandal, daughter of late-Yogendra Nath Mandal, resident of village-Naya Bazar, P.O + P.S-Rajmahal, District-Sahibganj.

.....
Petitioner

Versus

1.The State of Jharkhand

2.Sub Divisional Officer, Rajmahal

.....

Respondents

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioner : Mr. Rajeeva Sharma, Sr. Advocate

For the Respondents : Mr. P.C. Roy, S.C (L & C) I

9/Dated: 25th March, 2021

1. The matter has been heard through video conferencing.
2. This writ petition is under Article 226 of the Constitution of India whereby and whereunder following prayers have been made:

A. This Hon'ble Court may be pleased to quash the order contained in memo no.82 dated 30.01.2013 passed by respondent-Sub Divisional Officer, Rajmahal (Respondent no.2), whereby he has directed Shri Birendra Pandey, Circle Inspector, Rajmahal that, with the help of armed police force and police personnel, by 2.2.2013, he must ensure construction of the boundary wall of the civil court of Rajmahal admeasuring 4 feet and that he has further directed the petitioner that in the construction work, she would create no obstruction.

B. This Hon'ble Court may be pleased to hold and declare that the impugned order contained in memo no.82 dated 30.1.2013 is wholly illegal, arbitrary, mala fide, without jurisdiction an is a glaring example of violation of Article 14, 19 and 21 of the Constitution of India in view of the fact that if the impugned order is allowed to stand, it shall tantamount to wrongful confinement and home custody of the petitioner and his family members because if this 4 feet of the boundary wall of the civil court would be constructed, she along with her family members would be deprived of the way to enter and

exit at/from her home, which shall seriously affect her normal daily chores of life because the only way of exit and entry of the petitioner in her home is the premises of the civil court, Rajmahal through this area opened as 4 feet wide in the boundary wall of the Rajmahal Court;

C. Pending final hearing of this application, the operation of the impugned order contained in memo no.82 dated 30th January, 2013 be stayed, otherwise petitioner shall immediately be cut out from outside world and her communication from outside world be seriously confined, curtailed and cabined and that she shall be unable to perform her daily chores of life, and she would also be deprived of access of her basic needs like hospital, market, school, office, post-office, police station etc.

3. Mr. Rajeeva Sharma, learned senior counsel appearing for the petitioner after some argument on instruction of the writ petitioner, seeks permission to withdraw this writ petition in order to avail the alternative remedy by filing appropriate application before the competent court of civil jurisdiction for redressal of her grievance.

4. Mr. P.C. Roy, learned S.C (L & C) I appearing for the respondents is having no objection to such submission made by the learned senior counsel appearing for the petitioner.

5. This Court after taking into consideration this aspect of the matter and considering the submission made on behalf of the learned senior counsel for the petitioner, deem it fit and proper to allow such prayer.

6. Accordingly, this writ petition is dismissed as withdrawn with liberty to the petitioner to approach before the competent court of civil jurisdiction, if the petitioner so wishes.

It is made clear that this Court has not gone into the merit of the matter and if any such application would be filed before the competent court of civil jurisdiction, the same will be decided on merit.

7. Consequently, I.A. Nos.1381 of 2019 and I.A. No.1276 of 2020 also stand disposed of.

(Sujit Narayan Prasad, J.)

Saket/-