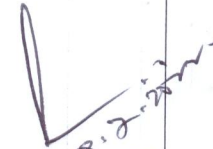


In the Court of Munsiff, Naharkatia

Present: T. Sinha, AJS

Misc. (J) Case No. 01/2022
(Arising out of T.S. No. 01/2022)

Date	Order	Signature
28.07.2022	<p>Today, it is fixed for passing final order in this case.</p> <p>The instant case under Order 39 Rule 2A of the CPC was initiated upon an application filed by the plaintiff of the Title Suit no.01/2022 (old Title Suit no.69/2013) alleging violation by the defendants of an order of status quo passed in a Misc.(J) case no.69/2013.</p> <p>The allegations brought by the petitioner/plaintiff are that, on 23.11.2014, between 9 am and 11 am, the opposite parties/defendants filled up the suit land of the aforesaid Title Suit with silt brought in 6 nos. of dumpers and in this way, they violated the order of status quo passed in the aforesaid Misc.(J) case no.69/2013 on 10.9.2014 in respect of the suit land.</p> <p>Per contra, the opposite parties denied the above allegations in toto.</p> <p>I have referred to the record of the above Misc.(J) case no.69/2013 and perused the order dated 10.9.2014 passed therein. The operative part of the order indicates that both the parties to the aforesaid Title Suit were directed to maintain the status quo over the suit land in respect of its nature and feature until final disposal of the Suit. However, there is no specific</p>	 Munsiff Naharkatia Contd...

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finding recorded therein with regard to the existing nature and feature of the suit land as on 10.9.2014.

The petitioner is merely alleging an act of earth-filling over the suit land. He has not stated as to how the same has changed the nature or feature of the suit land. In fact, the order of status quo itself is not specific and as such I fail to construe the exact purport of the order.

It is necessary to bear in mind the scope of Rule 2A of Order 39 of the Code of Civil Procedure. Under the said provision, a Civil Court is empowered to order the detention of the person who has violated the order, in civil prison. This power is penal in nature and, as such, an order under Rule 2-A of Order 39 cannot be passed on suspicion or as a matter of course. There should be a clear proof that the order to be obeyed was clear and unambiguous and, that with full knowledge of the content of the order, it was disobeyed.

In the present case, in the absence of any finding recorded in the order dated 10.9.2014 relating to the nature and feature of the suit land, it is not possible to consider the allegations brought by the petitioner in order to decide upon the culpability of the opposite parties under Order 39 Rule 2A of the CPC. As such, it cannot be said that the opposite parties have committed violation of any interim order.

With the above observations and findings, the instant case is dismissed, without any order as to cost.