

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.966 of 2014

=====

Ram Nandan Prasad, S/o Late Ramchandra Prasad, resident of Mohalla-
Rikabganj, P.O. + P.S. Tekari, District – Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Department of Revenue and Land Reforms,
Government of Bihar, Patna.
4. The Principal Secretary, Department of Urban Development,
Government of Bihar, Patna.
5. The Collector and District Magistrate, Gaya.
6. The Sub - Divisional Officer, Tekari, Gaya.
7. The Circle Officer, Tekari, Gaya.
8. The Tekari Nagar Panchayat, Gaya through its Executive Officer.
9. The Executive Officer, Nagar Panchayat Tekari, Gaya.
10. Ramashish Sharma, S/o Late Laxmi Narayan Singh.
11. Arbind Kumar, S/o Late Laxmi Narayan Singh.
12. Malti Devi, W/O Sidhi Singh.
13. Brij Nandan Singh, S/o Late Chhotan Singh.
14. Tetar Sao, S/o Late Karamchand Sao.
15. Pramila Devi, W/o Late Surendra Singh.
16. Sheo Nandan Prasad, S/o Late Bindeshwari Prasad.
Respondent nos.10 to 16 are residents of Mohalla- Rikabganj,
P.O. + P.S. Tekari, District - Gaya
17. Tata Tele Services Ltd. through Nodal Officer, Maharaja Kameshwar
Complex, 2nd Floor, Fraser Road, Patna.
18. Jyan Bharti School, through Its Principal, Raniganj, Ward No.2,
Tekari, Gaya.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Bishnu Kant Dubey

For the Respondent/s : Mr. Ram Subhash Singh, AC to AAG-15

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 12-03-2015

Heard Mr. Bishnu Kant Dubey, learned counsel

appearing on behalf of the petitioner and Mr. Ram Subhash

Singh, learned Assisting Counsel to Additional Advocate

General No.15 for the State.

The petitioner complains of encroachment by the

private respondents on what he claims to be a public land and described in paragraph 1 to the writ petition.

Even while making such complaint it is admitted at the Bar by Mr. Dubey, learned counsel appearing for the petitioner that no formal application has been filed by the petitioner as required under the provisions of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') rather to espouse the grievance the petitioner simply relies upon a judgment of the Supreme Court reported in **(2011) 11 SCC 396 (Jagpal Singh vs. State of Punjab)**.

On the strength of the said judgment it is the contention of Mr. Dubey that the State authorities more particularly the official respondents herein are legally obliged to remove all encroachment and thus once the attention has been drawn by the petitioner towards such violation, it was the duty of the respondents to take steps for removal thereof.

I have heard learned counsel for the parties and I have perused the materials on record.

Even when the Supreme Court has directed the district authorities to take steps for removal of encroachment from public land, the steps have to be taken lawfully and in the present case it has to be as per the procedure prescribed under

the Bihar Public Land Encroachment Act, 1956.

Admittedly no such application having been filed by the petitioner before the statutory authorities he can raise no such grievance by way of this writ petition. The proper course for the petitioner would be by filing properly constituted application before the statutory authority under 'the Act' by impleading the encroachers and explaining the extent of encroachment made by each of them. Until such time that the petitioner takes recourse to the remedy that is available to him in law, no indulgence can be granted to him in the present proceeding which is accordingly disposed of.

(Jyoti Saran, J)

SKPathak/-

U			
---	--	--	--