

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2714 of 2018

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Naresh Prasad @ Naresh Gope S/o Late Janak Gope R/o Village - Telhara,
P.O. + P.S. - Telhara, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reform and Revenue Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate, Nalanda, Biharsharif.
4. The Additional District Magistrate, Nalanda at Biharsharif.
5. The Sub-Divisional Officer, Hilsa, Nalanda.
6. The D.C.L.R. Hilsa, Nalanda.
7. The Executive Engineer, Local Area Engineering Organization, Work Division - 2, Hilsa, Nalanda.
8. The Circle Officer, Ekangarsarai, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishor Prasad
For the Respondent/s : Mr. Md.Khurshid Alam -Aag12

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 27-09-2018

Heard Mr. Ramchandra Prasad Singh, the learned
counsel appearing on behalf of the petitioner and the learned AC to
AAG-XII.

2. The petitioner has filed this writ petition for the
following reliefs:

I. For setting aside the recommendation of
Anchaladikari, Ekangarsarai, Nalanda Vide Memo
no. 1794 dated 23-10-2017 (Annexure- P/2) which
was issued for construction of Panchayat Bhawan in
the Village- Telhara, Panchayat Telhara, under



District- Nalanda, which was sent in compliance of letter issued by the Executive Engineer, Local Area Engineering Organization, Work Division-2, Hilsa, Nalanda vide Letter no. 1132/Hilsa, Dated 10-10-2017 for Khata no- 495, Khesra no. 2604, Thana no- 9, area 67 dismal which is agricultural Raiyati land of the petitioner and the same is being forcibly encroached by the respondents authority without initiating any legal proceeding, either under Encroachment Act or Land Acquisition Act.

II. Any other relief or reliefs as your lordship may deem fit and proper in the larger interest of natural justice.

3. The learned counsel for the petitioner submits that the land of Khata No.152 (old), Plot No.2057 (old), Area 2.4 Acres was recorded in the name of Gair Mazarua Malik. The ex-landlord settled 1 Acre 34 decimals land in the name of Janak Gope, the father of the petitioner in the year 1943 (Annexure-P/3) and also issued rent receipts but the Circle Officer recommended for construction of Panchayat Bhawan on the land settled in favour of the father of the petitioner. In the revisional survey, Khata No.152 (old) was numbered as Khata No.495 and different plots including



Plot No.2604 measuring 67 decimals was also carved out from Plot No.2057 (old). It is further submitted that the Circle Officer recommended for construction of Panchayat Bhawan on the land of the petitioner. According to the Resolution Number 925 dated 11.11.2014 (Annexure-P/4), the government reiterated the fact that if any Gair Mazarua Malik land was settled in favour of a raiyat by the intermediary, the same shall be deemed to be the raiyati land of the legal heirs of Raiyat. But it appears that the petitioner claimed the land of Plot No.2057 (old) Area 1 Acre 34 Decimals settled in the name of his father but the name of the father of the petitioner was not mutated. Even during revisional survey operation, the land was recorded as Gair Mazarua Malik Bihar Sarkar but the petitioner did not take any action for correction of the revisional records and to mutate his name. The respondents have also filed counter affidavit and stated that even during the revisional survey the land is recorded in the name of Government of Bihar as Gair Mazarua Malik.

4. Taking into consideration the facts aforesaid, I find that this Court in writ jurisdiction cannot hold that the petitioner is raiyat of the land alleged to have been settled in favour of Janak Gope by the intermediary before vesting of the State. The petitioner has already filed representation (Annexure-P/6) before



the Circle Officer, Ekangarsarai, Nalanda and before the Collector, Nalanda, Bihar Sharif. In this view of the fact, I disposed of this writ petition with a direction to the petitioner to file petition before the DCLR, Hilsa, Nalanda under Section 4H of the Bihar Land Reforms Act stating all the facts that on the basis of settlement made by intermediary the petitioner has been coming in possession over the land since 1943 and on such the DCLR, Hilsa, Nalanda shall dispose of the petition of the petitioner in accordance with law within four months from the date of filing such petition.

5. Accordingly, this writ petition stands disposed of with the aforesaid direction.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.10.2018
Transmission Date	NA

