

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15103 of 2012

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Ramayan Singh S/O Late Shanker Singh Resident Of Village- Pakwalia, P.S-
Badhariya, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Siwan.
3. The Sub- Divisional Magistrate, Siwan.
4. The Circle Officer, Badhariya, Siwan.
5. The Mukhiya, Saraswati Devi, Panchayat, Hatigayi, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar
For the Respondent/s : Mr.Devendra Kr Sinha

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

15 09-04-2019 Heard learned counsel for the petitioner and the State.

Petitioner wants demolition of the Aagannari Centre.

There is no dispute that Aaganbari Centre has not been constructed. There is no dispute that for construction of Aaganbari Centre, Gram Sabha has approved and all concerned communicated that the sanction of construction of Anganbari Centre has been approved.

Learned counsel for the petitioner submits that the area in question is a public road and respondents have arbitrarily constructed Aanganbari Centre over the land lying Parti.

In para 5 to 9 of the 4th suppl. counter affidavit, the respondents have taken the specific plea, which are quoted



herein below for ready reference:

“5. That the Revenue and Land Reforms Department, Bihar, Patna vide letter no.-1000 dated 05.10.2009 has authorized construction of Anganbari Centre on Gairmajarua Aam Land provided no objection is granted by the Gram Sabha and the nature and user of the said land has changed.

6. That in terms of the said notification, the Collector vide order dated 24.09.14 has granted sanction for transfer of 2 katha area of the Khata no.-172, survey no.-422 on which Aaganari Centre has been constructed.

7. That the Collector, Siwan issued the above order in the light of memo no.-359 dated 19.05.14 of the Revenue and Land Reforms Department, Bihar, Patna which empowers the Collector to effect inter departmental transfer of the Government/Gairmajarua Aam Land upto 3 Acres for any purpose.

8. That it is relevant to reiterate that the total area of Survey no.-422 is 2 Bigha 6 Katha 5 Dhur out of which only 2 Katha area has been given for Aaganbari Centre with the permission of Gram Sabha in its meeting dated 03.05.2010 and 26.01.2012.

9. That it is necessary to put on record that the portion of survey no.422 other than the DAGAR has not been under use as DAGAR till date and has changed its character. Importantly, the portion on which Aaganbari centre has been constructed was lying vacant as Parti and was no



longer retaining its original nature. It is humbly submitted that construction of Aaganbari Centre on the land in question has been done within the parameters of law.”

Considering the serious disputed questions of facts of existence of encroachment and use of survey plot no. 422 and change in its nature, the Court is not inclined to entertain the present writ application. However, liberty shall be available to the petitioner to approach the competent Civil Court for declaration that the plot in question is a public road and construction of Aaganbari Centre over the public road is unauthorized and he may seek proper relief in the nature of demolition of structure over the public land.

With the aforesaid liberty, the present writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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