

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24741 of 2013

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Yamuna Singh, son of late Nathun Singh, resident of village - Lodipur, P.O.
P.S. - Paraiya, District - Gaya

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Gaya.
3. The Sub-Divisional Officer, Tekari, District – Gaya.
4. The Circle Officer Tekari, District – Gaya.
5. The Superintendent of Police, Gaya.
6. The Officer-In-charge of Paraiya Police Station, District – Gaya.
7. Sheonandan Das, son of late Raghubir Das, resident of village – Sakhwa,
P.O. + P.S. - Paraiya, District – Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailesh Kumar Singh, Advocate
For the Respondent/s : Mr. Birendra Pd. Singh, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 27-05-2019

This writ application has been filed for issuing necessary direction to the respondents to remove encroachment from *raiyati* land of the petitioner as mentioned in para 1 of the writ petition.

Counsel for the petitioner submits that respondents have illegally kept stone boulder on his *raiyati* land appertaining to Khata No.28, Plot Nos.8, 9, 10, 11, 12, 13, 14 area 1 Acre 30 decimal situated at village-Sakhawa, P.S. and Anchal- Paraiya, District-Gaya. Counsel for the petitioner further submits that for construction of bridge raw materials were kept by the Contractor



of the State Government, namely, Sri Pappu Chaurasia, in the land of the petitioner. Thereafter, petitioner made request to State officials as well as private respondent to remove the material from his land, but no action has been taken. It is further submitted that private respondent started construction in the land of the petitioner for which petitioner made protest before the police and a proceeding under Section 107 Cr.P.C. was initiated.

It further appears that respondent No.4 by order dated 03.11.1999 ordered to the Circle Inspector to submit the report with regard to encroachment and complain made by the petitioner. The Circle Inspector after making verification of the spot submitted report to respondent No.4 stating that there is encroachment on the land of petitioner and measurement be done by the *Anchal Amin*. Xerox copy of report of the Circle Inspector is enclosed as Annexure-2 to the writ application.

Thereafter, the *Anchal Amin* in pursuance of the order passed by the respondent No.4 submitted his report on 27.09.2000 stating that land of the petitioner has been encroached by the respondent as well as Contractor for keeping the raw materials. Xerox copy of report of the *Anchal Amin* is enclosed as Annexure-3 to the writ application.



Thereafter, petitioner filed several representations before the authority concerned including the District Magistrate, Gaya, to take appropriate steps for removal of encroachment from his *raiyati* land, but no action has been taken. Xerox copy of the representation is enclosed as Annexure-4.

Counsel for the petitioner has enclosed Xerox copy of rent receipt and Land Possession Certificate dated 12.10.2012 and 20.10.2012 in respect of his claim that aforesaid land belongs to the petitioner. He is having valid paper to show his possession over the land. Xerox copy of the rent receipt, land possession certificates have been annexed as Annexure-6 series.

The petitioner filed detailed representation before respondent No.4 on 25.01.2013, making prayer to remove encroachment from his *raiyati* land, but nothing has been done by the respondents till date. Xerox copy of the aforesaid representation is enclosed as Annexure-7 to the writ application.

In such circumstances, this writ application is disposed off with direction to the petitioner to file fresh representation before the District Magistrate, Gaya, (respondent No.2) along with all papers in support of his claim with respect to encroachment made by respondents as well as the Contractor on his *raiyati* land as mentioned in para 1 of the writ application along with copy of



various representations filed by him before respondent No.4 and report of Circle Inspector and *Anchal Amin*, as contained in Annexure-2 and 3, within a period of one month from the date of passing of this order. The District Magistrate, Gaya, will pass appropriate order in accordance with law for removal of encroachment from aforesaid land of the petitioner after holding proper enquiry within a period of two months from the date of filing of such representation by the petitioner.

It is made clear that in the event District Magistrate, Gaya, (respondent No.2) does not pass any order within the aforesaid period, he will be liable to pay compensation to the petitioner for illegally encroaching the land of petitioner, which shall be determined by this Court upon filing separate petition by the petitioner.

This writ application is, accordingly, disposed off.

(Sanjay Priya, J)

J. Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.05.2019
Transmission Date	N/A

