

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25182 of 2019

=====

Rabinder Mishra, aged about 51 years, (Male), S/o Late Dilo Mishra,
Resident of Village and P.O.-Afajala (Balua), P.S.-Biroul, District- Darbhanga
at present residing at B-308, Ground Floor, Sector-20, Gautam Buddha Nagar,
P.S.-Sector-20 NOIDA, District- Gautam Budhha Nagar (Uttar Pradesh).

... .. Petitioner

Versus

1. The State of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Land Reforms, Government of Bihar, Patna.
4. The Commissioner, Darbhanga at Darbhanga.
5. The District Magistrate, Darbhanga.
6. The Sub-Divisional Officer, Biraul, Darbhanga.
7. The Circle Officer, Biraul, Darbhanga.
8. The Director General of Police, Bihar, Patna.
9. The I.G., Darbhanga at Darbhanga.
10. The D.I.G., Darbhanga at Darbhanga.
11. The Superintendent of Police, Darbhanga.
12. The Sub-Divisional Police Officer, Biraul, Darbhanga.
13. The Officer In-Charge, Biraul Police Station, Darbhanga.
14. The District Magistrate, Samastipur.

... .. Respondents

=====

Appearance :

For the Petitioner	:	Mr. Ranjan Kumar Jha, Advocate
For the State	:	Mr. Sajid Salim Khan, SC 25 with Ms. Prakritita Sharma, AC to SC 25

=====

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 17-12-2019

Heard learned counsel for the petitioner and learned SC
25 for the State.

2. The petitioner has moved the Court for the following
relief:



“That this writ application is being filed for issuance of a writ in the nature of mandamus commanding the Respondents to take immediate action/steps against the encroacher/trespasser in accordance with law and further to ensure that the possession of Land Holders over the land in question be not disturbed in violation of earlier order of this Hon’ble Court as well as law of the land and further for consequential orders/directions flowing from the main relief.”

3. The petitioner claims to be settlee of certain lands and his grievance is that despite having approached the authorities when his possession was threatened by strangers, no action was taken, which has resulted in such encroachers having built their huts etc. on his land.

4. Learned counsel for the State submitted that in the present facts and circumstances of case, when admittedly there are private persons who have encroached the land of the petitioner, the matter has to be now taken before the Civil Court for their eviction.

5. It was pointed out that in view of the provisions in the Bihar Land Disputes Resolution Act, 2009 read with the Bihar Land Disputes Resolution Rules, 2010 as well as the Bihar Tenancy Act, 1885 as amended up to date, there is provision for a *raiyyat* to approach the authorities to get his land demarcated with a



further provision that after such determination, if there is any encroachment found by persons, who have no right or title over the land in question, the authorities have the power to even remove such encroachment and restore possession of the land to the rightful owner.

6. Having regard to the aforesaid, in view of the fact that now actual position on the ground is to be ascertained *vis-a-vis* the claim of the respective parties, the court deems it appropriate to dispose off the writ petition with the observation that the petitioner may take recourse to the provisions of the aforesaid statutes, before the authorities concerned.

7. If any such application is filed, the authorities concerned shall be obliged to act in accordance with the statutory provisions and ensure that the provisions of law are made effective and not allowed to be frustrated, without any undue delay.

(Ahsanuddin Amanullah, J.)

Vikash/Rahul

AFR/NAFR	
U	

