

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17479 of 2017

Manjesh Kumar, son of Sri Niwas Yadav, resident of -Sapardah, P.S. Puraini,
District-Madhepura, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through Chief Secretary.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Irrigation, Govt. of Bihar, Patna.
4. The Chief Engineer, Water Resource Department, Saharsa, Bihar.
5. The Superintending Engineer Irrigation Purnea Circle Purnea.
6. The Executive Engineer Irrigation, Murliganj Division, Madhepura.
7. The Commissioner Koshi Division Saharsa Bihar.
8. The District Magistrate, Madhepura, Bihar.
9. The Additional District Magistrate (District Public Grievance Cell)
Madhepura, Bihar.
10. The S.D.O. Uda Kishunganj, Madhepura, Bihar.
11. The S.D.O. Irrigation (Uda Kishunganj) Madhepura, Bihar.
12. The Circle Officer Purani, Madhepura, Bihar.
13. The Officer in Charge Purani Police Station, Puraini Madhepura.

.... Respondent 1st Set.

14. Md. Minhaz, son of late Md. Rustum, resident of Village-Sapardah via
Sah Alam Nagar, Circle-Puraini, District-Madhepura.

... .. Respondents 2nd Set.

Appearance :

For the Petitioner/s : Ms. Sudha Chandra, Advocate
For the Respondent/s : Mr. Anjani Kumar -AAG 4

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 06-01-2020 This petition filed on 27.11.2017 is listed for hearing
for the first time today before the Court.

Heard learned counsel for the petitioner and learned
counsel for the respondents.

The petitioner has prayed for the following relief:-

“ (i) To issue an appropriate writ, order
or direction commanding the Respondent 1st Set
to remove the encroachments made by



Respondent 2nd Set over the Public Water Bodies land of Kunjauri-minor Nahar coming from Birpur Barrage Supaul-Murliganj, Kunjauri appertaining to New Khata No.850, New Plot No.1006, under Thana No.137 area 12 decimal under Mauza Sapardah, Circle-Puraini, District-Madhepura.

(ii) To issue further appropriate writ, order or direction commanding the respondent authorities to remove the encroachment from the public water bodies as reported by respondent Circle Officer to the Respondent Executive Engineer on 10.09.2016.

(iii) To issue further appropriate writ, order or direction to Respondents 1st set to fix responsibility over the responsible officers of the Districts such as District Magistrates and other officials of the Districts to ensure the proper maintenance and improvement of the public water bodies after removal of encroachments and also to prevent any further re-encroachment.

(iv) To issue further appropriate writ, order or direction commanding the Respondent Authorities (Respondents 1st Set) to fix the responsibility over the responsible officers, employees and beneficiaries in causing loss and damages and take undue advantages in utilising the resources of the public water bodies.

(v) To issue further appropriate writ, order or direction to Respondent Authorities (Respondents 1st Set) to assess the loss and damages caused to the public water body/Nahar in exploiting the resources and recover the same with penal interest from the wrong doers and deposit the same in Government Treasury, with a report to this Hon'ble Court.

(vi) This Hon'ble Court may adjudicate and hold that the actions of the Respondent Authorities in not taking proper steps for removal



of encroachment from the public water bodies from Birpur Barrage-Supaul Murliganj-Kunjauri appertaining to New Khata No.850, New Plot No.1006, under Thana No.137 area 12 Decimal under Mauza Sapardah. And maintenance of the public water bodies and causing negligence resulting into large scale encroachment over the public water bodies is an act of mala fide and arbitrary exercise of authority by the respondents.

(vii) This Hon'ble may further adjudicate and hold that the action of the respondents in not taking proper care in preservation and maintenance for Birpur Barrage Supaul-Murliganj-Kunjauri Nahar, an important public body amounts to dereliction of public duty for which they can be held responsible and be punished.

(viii) This Hon'ble Court may further adjudicate and hold that it was the public duty of the Respondent Authorities to safeguard all the public water bodies including Birpur Barrage Supaul-Murliganj-Kunjauri Nahar in the larger public interest and any inaction on the part of the Respondents makes them liable for proper enquiry action and punishment.

(ix) To award any other relief or reliefs for which the petition is found entitled in the facts and circumstances of the case.”

Even though no notice was issued in the present petition, but we notice that the respondents have filed their affidavit. In the affidavit it is so stated that the proceedings for removal of encroachments over the water bodies already stand initiated.



After the matter was heard for some time, learned counsel for the petitioner submits that petitioner shall be content if a direction is issued to the concerned respondents to consider and decide the representation, which the petitioner shall be making afresh within a period of four weeks from today.

Learned counsel for the State states that upon receipt of such request, if any, the same shall be dealt with in accordance with law, expeditiously and positively within a period of three months from the date of receipt thereof.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

The petition stands disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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