

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4517 of 2020

1. Madheshwar Yadav Son of Late Chandradev Yadav
2. Savitri Bharti D/o Late Sadhu Yadav W/o Madheshwar Yadav
Both resident of Village Lodipur, P.S.-Pariya District-Gaya At Present
Resident of Village Dhanawan P.S.-Bodh Gaya, District-Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department Revenue
Govt. of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub Divisional Officer, Sadar Gaya
4. The Anchal Adhikari Bodh Gaya.
5. Sunil Kumar Son of Late Amrit Singh Resident of Mohalla Dujra Road
Budha Colony Patna P.S.-Budha Colony District-Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nand Kishore Prasad Sinha
For the Respondent/s : Mr.Md.Khurshid Alam (AAG12)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 05-03-2020 Heard both sides.

The petitioners in this writ petition seek removal of encroachment of their purchased land of Khata No.55 old Plot No.33 area 42 decimals appertaining to new Khata No.141 new Plot No.90 and old Khata No.55, Plot No.33 area 32 decimals pertaining to new Khata No.39 new Plot No.89 area 74 decimals.

Learned counsel for the petitioners submits that respondent No.5, who is well connected with the politicians, came and encroached upon the land of the petitioners.



Respondent No.5 also constructed boundary wall. The petitioners filed petition before the Circle Officer for measurement of the land and for removal of encroachment. The petitioners also filed petition before the Collector for removal of encroachment but I find that respondent No.5 is alleged to have encroached upon the land. The petitioners firstly filed petition before the Circle Officer for removal of encroachment after getting the land measured but no required fees is deposited by the petitioners before the Circle officer for measurement of land. The Circle officer is not vested with the power for removal of encroachment made by a private party on a private land. Similarly, the Collector is also not vested with the power to remove encroachment and put the petitioners in possession of the land.

It is submitted that petitioners have not been dispossessed and the respondent No.5 was only intending to construct boundary wall after encroaching upon the land of the petitioners but the petitioners did not allow the respondent No.5 to construct the boundary wall.

If the petitioners wish to get their land measured, the petitioners may file petition before the Circle Officer with required fees for measurement of the land. This Court under



Article 226 of the Constitution of India cannot interfere into the disputed question of fact and accordingly, this writ petition is disposed of with liberty to the petitioners to move before the appropriate authority for the relief sought for.

If the petitioners file petition before the Circle Officer for measurement of their land after depositing the required fees, the Circle officer may get the land of the petitioners measured.

(Prabhat Kumar Jha, J)

Saurabh/-

U			
---	--	--	--

