

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13230 of 2019

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Abdul Aohale Ansari, Son of Md. Ashik Hussain, Resident of Village- Asha Parari, P.S.- Simri, District- Buxar.

... .. Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Patna.
2. The Principal Secretary, Land Reform and Survey, Bihar, Patna.
3. The District Magistrate, Buxar.
4. The Sub-Divisional Officer, Dumraon, Buxar.
5. The Superintendent of Police, Buxar.
6. The Circle Officer, Simri, Buxar.
7. The Officer In-Charge, Simri Police Station, District- Buxar.
8. Upendra Pandey, Son of Rajendra Pandey, Resident of Villlage- Asha Parari, P.S.- Simri, District- Buxar.
9. Amrendra Pandey, Son of Rajendra Pandey, Resident of Villlage- Asha Parari, P.S.- Simri, District- Buxar.
10. Umashankar Tiwary, Son of late Jangali Tiwary, Resident of Villlage- Asha Parari, P.S.- Simri, District- Buxar.
11. Shyam Bihari Tiwary, Son of late Jangali Tiwary, Resident of Villlage- Asha Parari, P.S.- Simri, District- Buxar.
12. Nagendra Tiwary, Son of Gulzar Tiwary, Resident of Villlage- Asha Parari, P.S.- Simri, District- Buxar.
13. Shailendra Tiwary, Son of Gulzar Tiwary, Resident of Villlage- Asha Parari, P.S.- Simri, District- Buxar.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Bijay Kumar Pandey, Advocate
For the Respondent/s : Mr. Ajay (GA-5)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR



ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-12-2020

Petitioner has prayed for the following relief(s):-

“(i) For issuance of an appropriate writ/ writs or direction to the respondents to remove encroachment over the (Public) Gairmazarua Aam land, situated in Village- Asha Parari under Simri Circle of District- Buxar in Khata No. 210 and 211 new Survey Plot No.722 Area - 8 decimal, Plot No.725 Acres 8 Decimal, Plot No.726 area 3 decimal, Plot No.727 area -10 decimal and plot No.728 area-7 decimal, the aforesaid land are inter linked and in a shape Gadha (ditch) which has been used by the villagers for flowing to drainage water of whole village for Irrigation of their field and also to avoid disease hazards due to dumping of drainage water.

The Private respondents No.8 to 13 are muscle men, they forcibly captured the land which resulted into so many difficulties to villagers not for Ingres sand outgress, but also for going outside from the village.

(ii) For issuance of an appropriate direction to the respondents to decide the representation of petitioner filed on 13.03.2019 for removing encroachment. The joint Director, consolidation (H.Q) Bihar, Patna in Revision case No. 265- 2017 on 13.02.2019 held that the land situated at an survey plot No.722, 723, 724, 725, 726 and 727 are Sarva



Sadharan land but even then the respondent has not taken any act on and allowing the respondents to capture the land and also allowing encroachment over plot No.728 which is declared "Anabad Bihar Sarkar".

(iii) For issuance of an appropriate writ for a direction to the respondents to not construct any Pucca structure over the said land.

(iv) For any other relief/ reliefs for which the petitioner is entitled to.”

Learned counsel for the State opposes the petition stating that the petition is misconceived; raises disputed question of fact; is not in public interest; and that the issue can be best resolved at the Government level by the appropriate authorities.

After the matter was heard for some time, learned counsel for the petitioner submits that petitioners shall be content if a direction is issued to the respondent no.3 to consider and decide the representation which the petitioners shall be filing for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioners, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of three months from the date of its



filing along with a copy of this order.

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

We are hopeful that as and when petitioners 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.

Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

Liberty reserved to the petitioners to approach the Court, if the need so arises subsequently on the same and subsequent cause of action.

We have not expressed any opinion on merits. All issues are left open.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

The petition stands disposed of in the aforesaid terms.



Interlocutory Application(s), if any, also stands
disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.12.2020
Transmission Date	

