

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13169 of 2018**

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Ambuj Kumar Son of Late Chandrika Singh, resident of Village- Katari, Post  
Office Patharkatti, Police Station- Mahkar, District- Gaya.

... .. Petitioner.

Versus

1. The State of Bihar through the Chief Secetary, Government of Bihar, Patna
2. The Principal Secretary, Irrigation Department, Government of Bihar, Patna.
3. The Principal Secretary, Revenue Department, Government of Bihar, Patna.
4. The Principal Secretary, Minor Irrigation, Department, Patna.
5. The Commissioner, Magadh Division, Gaya.
6. The District Magistrate, Gaya.
7. The Sub Divisional Officer, Nimchak Bathani, District- Gaya.
8. The Circle Officer, Nimchak Bathanui, District- Gaya.
9. The Officer-in-charge, Mahkar Police Station- District- Gaya.

... .. Respondents.

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**Appearance :**

For the Petitioner/s : Mr. Dinu Kumar, Advocate  
Mr. Arvind Kumar Sharma, Advocate,  
Ms. Kumari Neha, Advocate  
Mr. Vijay Kumar Vimal, Advocate  
Smt. Sangita Kumari, Advocate

For the Respondent/s : Mr. Anjani Kumar A.A.G.-4

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE S. KUMAR**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 01-12-2020**

Petitioner has prayed for following relief (s) -

“(i) For issuance of a writ in the nature of writ of  
mandamus commanding the state respondent not



to allow to change the structure water body in Payeen being Khata No.340, Plot No.2779 having an area of 39 decimals and Khata No.340 Plot Nos. 2384 having an area of 1.20 acre in the nature of Ahar which are the source of irrigation of the local villagers, use of drinking water of cattle and birds situated in Mouja Katari, Post Office Patharkatti, Police Station Mahkar, District Gaya.

(ii) Also for commanding the state respondent to restrain anti-social element who are involved in changing the character of Payeen and Khata No.340, Plot No.2779 area 39 decimals and Khata No.340 Plot Nos. 2384 having an area of 1.20 acre in the nature of Ahar situated in Mouja Katari, Post Office Patharkatti, Police Station Mahkar, District Gaya with the connivance of the local administration in order to deprive the right of source of irrigation of the local villagers which had been/have been utilizing irrigation since long for more than 100 years.

(iii) Also for directing the state authorities concerned to take action against the erring officials who have allowed in changing the nature of the aforesaid Khata No.340 plot no.2779 having an area of 39 decimals as Payeen and Khata No.340 Plot Nos. 2334 having an area of 1.20 acres as Ahar.

(iv) Also for commanding the respondents to restore the status of water body being Payeen situated over Khata No.340, Plot no.2779 area 39 decimals and Khata No.340, Plot Nos. 2384 area 1.20 acre as Ahar.”

Shri Anjani Kumar, learned Additional Advocate General-4, emphatically opposes the present petition, further adding that the same be dismissed with costs inasmuch as the dispute is not only private in nature, but also the petitioner is ensuring that the benefits of the Government schemes are not percolated to the rightful claimants i.e. agriculturists and not



distributed in equal measure to all the villagers under the various programmes implemented by the State.

On the other hand, Shri Dinu Kumar, learned counsel for the petitioner, states that the stand taken by the respondent authorities in the affidavit is not only false, but unfair.

Be that as it may, we are of the considered view that the dispute, civil in nature, inter se between two parties cannot be agitated in the present writ petition filed under Article 226 of the Constitution of India by way of a public interest litigation, more so to serve private interest. As such, we are not inclined to allow the writ petition.

Then, at this stage, Shri Dinu Kumar submits that the petitioner shall be content if directions are issued to the authorities to consider the petitioner's request which the petitioner has made vide Annexure-2.

Well, we dispose of the present petition with a direction to the petitioner to approach the State authority i.e. the District Collector, Gaya afresh.

We are hopeful that as and when such request is made, the same shall be considered and decided by the authority in accordance with law.



Petition stands disposed of.

Interlocutory application, if any, shall also stand disposed of.

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

K.C.Jha/-

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