

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11319 of 2017

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Binay Kumar Bhagat @ Binay Kumar Son of Late Ramotar Prasad Bhagat,
resident of Village- Gamaharia, P.O.- Gamaharia, P.S.- Gamaharia, District-
Madhepura.

... .. Petitioner/s

Versus

1. District Magistrate Cum Appellate Authority [Lok Shikayat Nivaran Pradhikar] at Madhepura.
2. Sub- Divisional Magistrate, Madhepura.
3. Circle Officer Gamaharia District Madhepura.
4. Sachhendra Prasad Bhagat son of Lalmohar Bhagat resident of Village- Gamaharia, P.O.- Gamaharia, P.S.- Gamaharia, District- Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Diwakar Prasad Singh, Advocate
For the State : Mr.Sajid Salim Khan-Sc25

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 18-04-2023 The present writ petition has been filed
seeking the following reliefs:-

*"1. That this writ application is
being filed with prayer of Issuance of
appropriate writ order or direction
commanding the respondents for
following main reliefs:*

*(i) That, for issuance of appropriate
writ order or direction of writ in the
nature of Certiorari quashing the Letter
no.416-2 dated 21.06.17 by which the*



petitioner was directed to vacate the House of the petitioner within 24 hrs. Standing in Khata No.842 Plot No.714 area 3.975 decimal upon a Complaint Made by Sachhendra Prasad Bhagat bearing complaint No.511210119101600491/2A complained against Damodar Yadav otherwise the house of petitioner was directed to be demolished by force & entire expenses will be directed to be recovered from the petitioner.

(ii) That for Issuance of appropriate writ, order or direction of writ in the nature of declaration by way of mandamus commanding the respondents not to harass the poor petitioner who are residing in the same plot by constructing their affordable House in the land bearing Plot No.713 under Khata No.671 area 0.03.0121 Decimal stands in the name of Reshmi Devi wife of Ramotar Bhagat & the Certified Copy of Khatian issued in May 1980 & the up to date Rent receipt issued by the Circle officer confirms the legal title of the petitioner as such a declaration be issued Commanding the Circle officer to make measurement of land of petitioner at the spot instead



passing erroneous, illegal & arbitrary order against the essence of Bihar Land Encroachment Act.

(iii) That for issuance of appropriate writ order or direction of writ in the nature of mandamus commanding the respondent that any proceeding for removal of Encroachment must be made complying the principles of natural Justice, & affording the opportunity of hearing as also reasonable course of Hearing/appeal particularly when the affected persons are poor & landless having lesser fortune in their hand particularly when the certified Copy of Khatiyani issued in May 1980 & the up to date Rent receipt issued by the Circle officer definitely proves legal title of the petitioner.

(iv) That for issuance of appropriate writ order or direction of writ in the nature of mandamus commanding the respondent, to verify the certified Copy of Khatiyani issued in May 1980 & the up to date Rent receipt issued by the Circle officer before passing any order against the interest of petitioner."

At the outset, the learned counsel for the



petitioner submits that the petitioner has already filed a title suit bearing Title Suit No.335 of 2017, before the learned court of Sub-Judge-V, Madhepura and the learned court vide order dated 24.11.2017 has already granted interim protection to the petitioner, hence, the petitioner be granted liberty to pursue the said title suit. Liberty so sought is granted.

The writ petition stands disposed off.

(Mohit Kumar Shah, J)

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