

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4435 of 2023

Rakesh Singh aged about 60 years, male, son of Late Kedar Singh, resident of Village- Jamuhar, P.O.- Jamuhar, P.S.- Dehri Mufassil, District- Rohtas at Sasaram.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Patna.
2. The Additional Chief Secretary, Land Reforms and Revenue, Bihar, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. The Sub-Divisional Magistrate, Sasaram.
5. The Block Development Officer, Sasaram.
6. The Circle Officer, Sasaram.
7. The Mukhiya, Gram Panchayat Mohaddiganj, Sasaram.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Anjani Kumar, AAG-4

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 07-04-2023

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

2. The writ petitioner has approached this Court by way of instant Public Interest Litigation seeking directions for removal of encroachment from lands in cadastral survey (CS) Khata No. 21, CS Plot No. 22, corresponding to Revenue Survey (RS) Khata No. 48, RS Plot No. 81, having an area of 97 decimals, situated at Mauza- Hetimpur, Thana No. 124,



Thana- Sasaram in the District of Rohtas, under Tauji No. 3125. Petitioner claims that the lands have been recorded as '*Gairmajarua Aam*'. It is the petitioner's case that an '*Ahar*' (reservoir) existed on the land in-question since long. Land filling has been undertaken by one Pancham Ram Sonkar, Budhiya Devi along with Mantorba Devi, the alleged encroachers. The reservoir has, thus, been rendered useless for the local people, who were using the same for rainwater harvesting and irrigation and other purposes. The averment in the writ petition along with material on record reveals that as per petitioner's case the nature of the concerned land, in Khata No- 48, cannot be ascertained since the records in the Office of Revenue Authorities for the lands in-question is missing/traceless/torn. It is also apparent from Annexures- P/2 an alleged report dated 13/05/2018 submitted by the Circle Officer, Sasaram, that for the land in-question, a decree was passed in Title Suit No. 132/82 and '*Jamabandi*' was created in favour of the two above named encroachers by the Land Reforms Deputy Collector, Sasaram, in Case No. 35/ 2014-2015.

3. Having regard to the averments in writ petition as well as the Annexures appended thereto, this Court would



observe that adequate remedy is available to the petitioner for removal of encroachment from the alleged public lands as per the petitioner's case. The Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') provides adequate remedies for removal of encroachment from public land. This Court would observe that the Act provides remedy for removal of encroachment from public lands. The Statute and Rules framed thereunder provide a procedure whereby and whereunder the nature of lands, the defense of alleged encroachers and other issues may be considered. The Authority, under the Statute, is conferred with powers of a Civil Court to issue commission, to hold local inspection, to summon and enforce attendance of witnesses and to compel the production of documents in the inquiries under the Act. The Act provides for summary disposal of proceedings.

4. In view of existence of such fair and expeditious statutory remedy, this Court would observe that all alleged encroachments over public lands cannot be brought before this Court by way of Public Interest Litigation. Invocation of writ jurisdiction by the petitioner as a Public Interest Litigation in the instant case, therefore, is misconceived. The writ petition is dismissed leaving the petitioner to avail his remedy/s in



accordance with law.

5. This order may not be considered as an expression of opinion on the merits of the petitioner’s claim with respect to the alleged encroachment etc. All issues have been left open.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13/04/2023
Transmission Date	N/A

