

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3790 of 2023

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Anku Kumar Gupta Son of Rajendra Prasad Gupta @ Rajendra Prasad Sah,
resident of Village- Chandra Bhanpur, P.S. Sajour (Shahkund), District-
Bhagalpur.

... .. Petitioner

Versus

1. The State of Bihar Bihar
2. The District Magistrate, Bhagalpur.
3. The Superintendent of Police, Bhagalpur.
4. The Additional Collector Bhagalpur.
5. The Sub Divisional Officer Sadar Bhagalpur.
6. The Deputy Superintendent of Police, Bhagalpur.
7. The Executive Engineer PHED Department Bhagalpur.
8. The Block Development Officer, Shahpur District Bhagalpur.
9. The Circle Officer, Shahkund, District Bhagalpur.
10. The Station House Officer Sajour, District Bhagalpur.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Ashutosh Kumar, Advocate
For the Respondent/s	:	Mr.Rishi Raj Sinha (SC19), Mr. Manoj Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 02-11-2023 Heard learned counsel for the petitioner and the State.

2. Present writ petition has been filed for a direction to the respondent authorities to remove the boring pump house and water tank constructed by the Government under the Gramin Nal Jal Yojna, in the khatiyani land of the petitioner description of which mentioned in paragraph 1 of the writ petition.

3. Learned counsel for the petitioner submits that the said land was recorded in the name of grand father of the petitioner and at the time of construction of boring petitioner had made several representations before the State authorities but overlooking the same, boring and the water tank was



constructed over the land of the petitioner. However, measurement of the land was done by the Government amin on 1.11.2021 who submitted vague report without proper adjudication of grievance of the petitioner.

4. Learned counsel appearing for the State has filed counter affidavit stating therein that the land, claimed by the petitioner, is in fact Government land which is also evident from the report of the Circle Officer, Shahkund (annexure A to the counter affidavit). In paragraph 10 of the counter affidavit, it is stated that the petitioner failed to present any document with respect to his title over the land where boring pump house and water tank has been constructed, rather petitioner, in support of the claim, has submitted a measurement report prepared by a private amin.

5. The question, as to whether land in question is a raiyati land of the petitioner or Government land, is a question of fact and there is great deal of dispute on that question which would require detailed examination of evidence. The same cannot be decided by a writ and proceeding under Article 226 of the Constitution of India would not be appropriate for the decision of the question.

6. Writ petition is accordingly dismissed with liberty to the petitioner to file proper suit before the civil court of competent jurisdiction.

(Prabhat Kumar Singh, J)

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