

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4889 of 2020**

=====

Kameshwar Gop @ Kameshwar Yadav Son of Late Yugal Gope @ Yugal Yadav Resident of Village- Bhalua Chatty, P.S.- Bara Chatty, District- Gaya, Pin code- 824201 (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Forest and Environment Department, Government of Bihar, Patna.
2. The District Forcast Officer Forest and Environment Department, District- Gaya, (Bihar).
3. The Forest Ranger Forest and Environment Department, Bara Chatty Area, District- Gaya, (Bihar).
4. The Chief Conservator of Forest Forest and Environment Department, Bihar at Patna (Bihar).

... .. Respondent/s

=====

**Appearance :**

|                      |   |                                                                     |
|----------------------|---|---------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Jitendra Pd. Singh, Advocate<br>Mr. Binod Kumar Sinha, Advocate |
| For the State        | : | Mr. Ashok Kumar Pathak, AC to GP-21                                 |

=====

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

4      10-08-2023                      **I.A. No. 01 of 2023:**

The aforesaid petition has been preferred challenging the notice dated 28.6.2023 issued by the respondent no.3 with a direction to remove the encroachment in the forest land.

In view of the fact narrated in the interlocutory application, the I.A. No. 01 of 2023 is allowed.

**C.W.J.C. No. 4889 of 2020:**

Heard the parties.

The present petition has been preferred for the following relief:



*(i) for issuance of a writ of mandamus directing the Dependent not to interfere with the physical possession of the petitioner over which he claims of right and possession over the land thorough a Deed Of Settlement executed in favour of his ancestor by the Ex-landlord in the year Fasli 1349 corresponding to 15.04.1942;*

*(ii) for issuance of a writ in the nature of prohibition directing them and restraining them not to demolish any portion of the building standing over the land without giving prior notice to the petitioner and further to direct the Respondent to compensate the petitioner for the damage they have caused by demolishing a portion of the building in which the Petitioner was running his Hotel over the portion of the said land.*

It has been submitted by the learned counsel for the petitioner that earlier also the respondent authorities disturbed the petitioner forcing him to file Suit No. 1551 of 1977 in which



the forest officials were the opposite parties and the same was decided in his favour on 14.7.1983 (Annexure-2 to the writ petition).

It is further submission of the learned counsel for the petitioner that this was never challenged by the respondent authorities but acting on their whims, they are disturbing and in continuation, a fresh notice has been sent on 28.6.2023 by the Forest Range Officer (Annexure-I/1 to the I.A.).

A counter affidavit filed on behalf of the Divisional Forest Officer, Gaya (respondent no.2) is on record stating that the same is notified as protected forest under section 29 of the Indian Forest Act, 1927 and accordingly, notices have been issued to the petitioner.

Upon perusal of the counter affidavit, nowhere the respondent no.2 has answered whether the order on 14.7.1983 (Annexure-2 to the writ petition) is there in favour of the petitioner or not but only it has been repeated that the same has been declared as protected forest.

On query, from the State counsel whether the said order was challenged or not, no answer is forthcoming.

In the aforesaid background and taking into account all the facts on record, this Court has no option but to quash the



notices issued by the respondent authorities in view of the fact that there is an order in favour of the petitioner.

The respondent authorities are free to take legal remedy, if they so want to challenge the order passed by the Court of Assistant Settlement Officer, Gaya dated 14.7.1983(Annexure-2 to the writ petition), if they are convinced that the land in question is a protected forest.

The writ petition stands disposed of.

**(Rajiv Roy, J)**

Ravi/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

