

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4278 of 2023

Shrwan Yadav, S/o Mashharu Yadav, R/o Village-Nadai, P.O.-Gauraman Singh, P.S.-Jamalpur, (OP Bargoa), Dist-Darbhangha, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Department of Rural Development, Govt. of Bihar, Old Secretariat, Patna.
4. The Divisional Commissioner, Darbhanga Division, Darbhanga, Bihar.
5. The District Magistrate, Darbhanga, Bihar.
6. The S.D.O. Biraul, Darbhanga, Bihar.
7. The Circle Officer, Goraboram Block, Darbhanga, Bihar.
8. The Officer in Charge Jamalpur Police Station, Darbhanga, Bihar.
9. Shri Ram Charitar Yadav, son of Late Busan Yadav, R/o Village-Nadai, P.O.-Goraman Singh, P.S.-Jamalpur, (OP Bargoa), Dist-Darbhangha, Bihar.
10. Mahesh Yadav, son of Late Ram Swaroop Yadav, R/o Village-Nadai, P.O.-Goraman Singh, P.S.-Jamalpur, (OP Bargoa), Dist-Darbhangha, Bihar.
11. Anuthi Yadav, Son of Late Ram Swaroop Yadav, R/o Village-Nadai, P.O.-Goraman Singh, P.S.-Jamalpur, (OP Bargoa), Dist-Darbhangha, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh, Advocate
For the Respondent/s : Mr. Manoj Kr. Ambastha, SC-26

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 18-04-2023

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

2. The writ application has been filed as a Public
Interest Litigation (PIL) seeking direction for removal of



encroachments over alleged public lands.

3. The petitioner has disclosed the details of the land, which is irrelevant having regard to the nature of order that we propose to pass in the instant proceedings.

4. The Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as “the Act”) provides remedy for removal of encroachment from public lands. Section 4 of the Act allows an opportunity to the noticee (petitioner) to raise any defense which they could have raised if they were defendants in a properly framed suit for removal of encroachment. The Act also provides an opportunity of hearing under Section 5; as well as the consequences of non-appearance in the proceedings.

5. It is only after observing the above procedure that final order is to be passed by the Collector under Section 6 of the Act, either dropping the proceedings or passing orders for ensuring removal of encroachment, damages or otherwise. The order of the Collector for removing encroachment is also subject to appeal under Section 11 of the Act. Section 13 of the Act also provides an opportunity of review in case of any mistake or error in the course of any proceedings.

6. The issue raised by the petitioner is essentially an issue falling within the scope and ambit of the Act. The writ



petition, by way of a PIL, therefore, in the opinion of the Court, is misconceived. If the instant case were to be entertained as a PIL, then all issues of encroachment would be required to be dealt with by this Court as a PIL.

7. We find that no public interest concerning any marginalised/oppressed, or inarticulate section of society has been espoused in the instant writ proceedings, so as to allow the petitioner to bypass the statutory remedy whereby and whereunder the alleged encroachers of the public lands would be dealt with in a fair procedure, and leave it open for the petitioner to pursue remedy in accordance with law.

8. The writ petition is dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.04.2023
Transmission Date	NA

