

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4491 of 2023

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Mohamad Isa, (Male) aged about 66 years, Son of Md. Hasan, resident of Village -Firojpur, P.S. Aandar, District - Siwan.

... .. Petitioner

Versus

1. The State of Bihar .
2. The Secretary, Land Reforms and Revenue Department, Government of Bihar, Patna.
3. The District Magistrate, Siwan.
4. The Sub Divisional Officer, Siwan Sadar, District - Siwan.
5. The Circle Officer, Raghunathpur, District - Siwan.
6. Shivjee Son of Late Rampat Yadav, Resident of Village - Firojpur, P.S. Aandar, District - Siwan.
7. Sri Ram Yadav, Son of Late Rampat Yadav, Resident of Village - Firojpur, P.S. Aandar, District - Siwan.
8. Baliram Yadav, son of Mangal Padav Resident of Village - Firojpur, P.S. Aandar, District - Siwan.
9. Sudama Yadav, Son of Late Bhagrashan Yadav, Resident of Village - Firojpur, P.S. Aandar, District - Siwan.
10. Subhash Yadav, Son of Late Bhagrashan Yadav, Resident of Village - Firojpur, P.S. Aandar, District - Siwan.
11. Hareram Yadav, Son of Late Somari Yadav Resident of Village - Firojpur, P.S. Aandar, District - Siwan.
12. Parshuram Yadav, Son of Late Somari Yadav Resident of Village - Firojpur, P.S. Aandar, District - Siwan.
13. Gurucharan Ram, Son of Late Mangaru Ram, Resident of Village - Firojpur, P.S. Aandar, District - Siwan.
14. Vijay Ram, Son of Late Haricharan Ram, Resident of Village - Firojpur, P.S. Aandar, District - Siwan.
15. Ajay Ram, Son of Late Haricharan Ram, Resident of Village - Firojpur, P.S. Aandar, District - Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr.Awadhesh Kumar Pandit, Advocate
For the State : Mr.Subhash Pd. Singh, GA-3

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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 petitioner claims to be a Social Activist and Secretary of the '*Kabristan*' (cemetery). The writ application has been filed in the nature of a Public Interest Litigation seeking issuance of directions for removal of encroachment from the '*Kabristan*'. It is apparent from the averments in the writ petition that some of the lands, in the periphery of the '*Kabristan*', allegedly encroached, were settled in the name of some of the alleged encroachers (Private Respondent Nos. 6 to 15).

3. The petitioner claims that the *Jamabandi*/settlement in favour of some of the encroachers has already been cancelled. The petitioner also claims that from the point of maintenance of law and order in Raghunathpur Revenue Block erection of boundary around the cemetery was kept at priority No. 23, as per the District Officials and some funds had also been sanctioned. However, on account of encroachment by the private respondents, boundary has not been erected till date and, hence, direction for removal of encroachment is sought for in the instant proceedings by way of a Public Interest Litigation.



4. The learned counsel for the State submits that in the instant writ application the petitioner's *locus* is an important issue which has to be looked into, since he is himself claiming to be Secretary of the cemetery, lands of which are said to be encroached by private respondent Nos. 6 to 14. The nature of dispute raised between the petitioner and private individuals cannot be said to be having any public interest.

5. Considering the rival submissions, this Court would find force in the submission of the learned State counsel. The petitioner is claiming to be Secretary of the cemetery, whose lands have been encroached by the private individuals. For removal of such encroachment the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') provides adequate remedies for removal of encroachment from public land. 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 enquiries under the Act. The Act provides for summary disposal of proceedings.



6. 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.

7. 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

