

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9150 of 2021

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Jagan Turha @ Jagan Sah, S/o Late Yamuna Sah, R/o- Satwaria, P.O.- Sihpur,
P.S.- Sathi, Anchal- Lauria, Distt- West Champaran (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, West Champaran, Bihar.
2. The Sub-Divisional Officer, West Champaran.
3. The Land Reform Deputy Collector, Narkatiyaganj, West Champaran.
4. The Circle Officer, Lauria, West Champaran.
5. Ashraffi Sah S/o Bengali Sah R/o Villa- Satwaria, P.O.- Sihpur, P.S.- Sathi,
Anchal- Lauria, Distt- West Champaran (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Alok Chandra, Advocate
For the State	:	Mr. Rishi Raj Sinha, SC-19

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 04-12-2023

1. Heard learned counsels for the parties.

2. This writ application has been filed for the following reliefs:-

- “I. For direction to the respondent authority specially the Circle officer, Lauria, West Champaran to implement the order of the Authority under Lok Sikayat Nivaran Padhadhikari.
- II. For direction to the Circle Officer, Lauria, West Champaran to restrain the Private respondent to interfere in the peaceful possession of the petitioner.
- III. For any other relief/reliefs for which petitioner is found entitled in the fact and circumstances of the present case.”

3. It is submitted on behalf of the petitioner that despite clear order of the L.R.D.C., Narkatiyaganj, West Champaran dated 15.05.2012, till date no action has been taken by the Circle Officer, Lauria, West Champaran to remove the



encroachers from land of the petitioner. Order passed by the DCLR has not been appealed against, as such order has become final.

4. Learned counsel for the State submits that there is specific provision under Section 15 of the Bihar Land Disputes Resolution Act, 2009, which reads as follows:-

“15. Execution of the order passed by the competent authority.- The competent authority shall execute the order passed by him subject to order, if any, passed in appeal.

Provided that if no appeal is filed within the prescribed period he shall proceed to execute the said order either himself or authorise any other officer or employee to execute the same.”

5. It is settled law, as per judgment of the Hon’ble Apex Court in the case of ***Raj Kumar Shivhare versus Assistant director, Directorate of Enforcement and Another*** reported in ***(2010) 4 SCC 772***, that where a right or liability is created by a statute which gives special remedy for enforcing it, the remedy provided by that statute alone must be availed of.

6. It is case of non-implementation of order passed by the Deputy Collector Land Reforms directing the Circle officer to remove the encroachment by private respondents upon the land of the petitioner. Order passed by the D.C.L.R. has not been appealed and as such, order has become final. The remedy of the petitioner thus lies in approaching the competent authority under Section 15 of the Bihar Land Disputes



Resolution Act, 2009.

7. In the above view of the matter, this Court is not inclined to interfere in the matter in its extra-ordinary writ jurisdiction.

8. In view of the aforesaid facts and circumstances of the case, this writ application is disposed of with liberty to the petitioner to approach the appropriate authority available to the petitioner in accordance with law.

9. If the petitioner files his representation/appeal/application before the appropriate authority, the same shall be dispose of in accordance with law, after hearing the parties.

10. It goes without saying that if any question of limitation arises before the appropriate authority, the same shall be considered, taking into consideration the fact that the petitioner was pursuing the issue before this Court under Article 226 of the Constitution of India.

(Prabhat Kumar Singh, J)

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