

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9382 of 2020

Niraj, Advocate, Son of Late Ram Naresh Singh, Resident of Mohalla-
Pokharia, Ward No.39, P.O. and P.S.- Begusarai, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Urban Development
Department, Govt. of Bihar, Patna.
2. The Collector, Begusarai.
3. The Municipal Commissioner, Begusarai.
4. The Sub-Divisional Officer, Begusarai.
5. The Circle Officer, Begusarai.
6. Sunil Kumar Singh Son of Late Ramudit Singh, R/o Mohalla- Pokharia,
Ward No.35, P.O. and P.S.- Begusarai, District- Begusarai.
7. Niranjan Kumar Singh, Son of Late Ramudit Singh R/o Mohalla- Pokharia,
Ward No.35, P.O. and P.S.- Begusarai, District- Begusarai.
8. Dr. Avilash Kumar Singh S/o Late Brahmdeo Singh R/o Mohalla- Pokharia,
Near Wari Kali Mandir, P.O. and P.S.- Begusarai, District- Begusarai.
9. Smt. Neelam Singh W/o Dr. Avilash Kumar Singh R/o Mohalla- Pokharia,
Near Wari Kali Mandir, P.O. and P.S.- Begusarai, District- Begusarai.
10. Mr. Birendra Prasad Singh S/o Late Hardwari Singh R/o Mohalla- Pokharia,
Ward No. 39, Near Wari Kali Mandir, P.O. and P.S.- Begusarai, District-
Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amrendra Kumar Sinha No.1, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, AG

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-05-2023

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

2. The writ application has been filed for a direction to
the authorities concerned to remove the encroachment from the



public road encroached by the private respondents.

3. 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 nonappearance in the proceedings.

4. 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.

5. 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.

6. If the petitioner’s grievance includes encroachment on any plot, then the remedy would lie by way of proceedings under the Act.

7. For availing remedy in accordance with law, the writ petition is disposed of.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	09.05.2023
Transmission Date	

