

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7358 of 2023

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Mukesh Chaubey, Son of Shri Rambriksh Chaubey, Resident of Village-Karuna, Panchayat Malahi, P.S. Sursand, District Sitamarhi, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary Land Reforms, Government of Bihar, Patna.
3. The District Collector, Sitamarhi.
4. The Additional Collector, Sitamarhi.
5. The Circle Officer, Sursand, Distirct-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Satyamurti, Advocate
For the Respondent/s : Mr. Manish Kumar, GP-4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 17-05-2023

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

2. The instant writ application has been filed as a Public Interest Litigation (PIL) for removal of encroachments from a land, details of which have been give, but are not necessary in view of the nature of order that we propose to pass.

3. It is admitted case of the petitioner that an Encroachment Case No. 3 of 2022-23 has been instituted on the applications filed by the petitioner.

4. From the pleadings available on record, it is



apparent that rather than pursuing the encroachment case under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as “Act”), the petitioner has resorted to remedies under the Bihar Right to Public Grievance Redressal Act, 2015.

5. Having done so, the petitioner has filed the instant writ proceedings as a Public Interest Litigation.

6. Since the Authority under the Act has already instituted an encroachment case, the issue raised by the petitioner is falling within the scope and ambit of the Act and resort to the instant writ proceedings by way of a PIL, in the opinion of this Court, is misconceived. It is only after observing the procedure as per the Act in the encroachment case that final order is to be passed by the Collector, either dropping the proceedings or passing order for ensuring removal of encroachment, damages or otherwise.

7. We find that no public interest concerning any marginalised/weaker/inarticulate section of society having 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)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
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