

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7625 of 2023

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Ajay Kumar Mishra S/o Satnaryan Mishra Resident of Vill- Raghapur, PS- Rivilganj, Dist- Saran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. District Magistrate, Saran.
3. Sub Divisional Officer, Chhapra Sadar, Saran.
4. Circle Officer, Anchal- Rivilganj, District- Sadar.
5. Arbind Kumar Mishra S/o Kameshwar Dutt Mishra R/o Village- Raghapur, P.S.- Rivilganj, Distt- Saran, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiv Pratap, Adv.
For the Respondent/s : Mr. Raj Kishore Roy, GP-18

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 18-05-2023

Heard Mr. Shiv Pratap, learned counsel for the petitioner and Mr. Raj Kishore Roy, learned counsel for the State.

By invoking the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner seeks a direction to restrain the respondent-authorities from demolishing the house of the petitioner including his shed, which is allegedly said to have been constructed over Plot No. 393, Thana No.213, situated at Mauza-Raghapur, Anchal-Rivilganj, Saran.



Submissions has been made on behalf of the petitioner that the petitioner has been coming in peaceful possession of plot nos. 392, 394 and 395 for the last twenty years and so far the plot no. 393 is concerned, admittedly it is a *Gair Mazarua* Aam Rasta and no construction, whatsoever, has been made over the said land. He further submitted that on a complaint made by private respondent no.5 before the District Public Grievance Redressal Authority, an Encroachment Proceeding Case No. 08 of 2023-24, has been initiated behind the back of the petitioner. On receipt of the notice, the petitioner entered his appearance in the aforementioned encroachment case and submitted his reply. However, without there being any consideration of his reply, he has been directed to remove the encroachment as it reveals from the letter no. 450 dated 25.04.2023, contained in Annexure-4 to the writ petition. Mr. Pratap, vehemently submitted that the measurement which has been done by the Anchal Ameen has never been made in his presence and moreover the construction, in question, have been made on the plots exclusively belonging to the petitioner, bearing nos. 392, 394 and 395, have never been measured. He next submitted that the petitioner has always been willing and ready to get the land measured by the respondent no.4, in his presence and if it would



be found any encroachment there, he is ready to remove it.

Learned counsel representing on behalf of the State has no objection on the submissions made by the petitioner for fresh measurement by the respondent no.4 in his presence.

In view of the aforesaid submissions, the present writ petition stands disposed of with a direction to the respondent no.4, Circle Officer, Anchal-Rivilganj, to get the land of the petitioner measured vis-à-vis the plot no. 393, which is admittedly an Aam Rasta.

It is needless to observe that prior to the measurement of the land in question, proper notice is to be served upon the petitioner and the same would be done within a period of four weeks and by that time it is expected that the respondent-authorities will not take any coercive action or remove the alleged encroachment till the final measurement is made.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19-05-2023
Transmission Date	

