

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8155 of 2023

Manoj Kumar Gupta Son of Shri Ramayan Prasad Gupta, Resident of Ward No. 8, Village Kauri, P.S. Kursakanta, District Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Land and Revenue, Government of Bihar, Patna.
3. The Principal Secretary, Department of Road Construction, Government of Bihar, Patna.
4. The District Magistrate-cum-Collector, Araria.
5. The Sub-Divisional Officer, Araria.
6. The Circle Office Kursakanta, District Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.S.D. Sanjay, Sr. Advocate Mr.Mohit Agarwal, Advocate Mr.Rahul Kumar, Advocate
For the State	:	Mr.Rishi Raj Sinha, SC-19 Mr.Atul Shankar, AC to SC-19

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 21-08-2023

1. The present writ petition has been filed seeking the following relief(s):-

“1.(i) For direction upon the Respondent Circle Officer, Kursakanta to immediately get the land bearing Khata No. 274, Khesra No. 985 measuring area 12 Decimal and also the Khata No. 275, Khesra No. 984 measuring area 17 decimals, both situated at Circle Kursakanta, Mauza Kuwari, District Araria, Thana No. 86 before getting the work of construction of road in the said



area;

(ii) For restraining the concerned respondents to not make any construction of road on the land of the petitioner before getting the land of the petitioner demarcated as the Respondents have marked within the Raiyati land of the petitioner for construction of road;

(iii) For holding that the Respondent Circle Officer, Kursakanta in most arbitrary and illegal manner has marked certain portion of the Raiyati land of the petitioner and demolished part construction on the same without considering its earlier measurement order dated 29.01.2007 passed in Land Measurement Case No. 45/2005-06.”

2. At the outset, the learned counsel for the respondent-State has submitted that as far as the plots of the petitioner are concerned, the same appertain to Plot No.984, Khata No.275 and Plot No.985, Khata No.274, situated at Circle Kursakanta, Mauza Kuwari, District-Araria, admeasuring 17 decimal and 12 decimal, respectively and with regard to same no encroachment proceedings have been initiated.

3. It is further submitted by referring to paragraph no.7 of the counter affidavit, filed in the present case by the Circle Officer, Kursakanta that land encroachment proceedings



have been initiated vide Land Encroachment Case No.31 of 19-20/3 of 2022-23, pertaining to Plot No.403, Khata No.1242, hence it is submitted that the petitioner is not having any threat perception with regard to either demolition of his house or his eviction.

4. In view of the aforesaid, this Court directs that, since Plot No.984, Khata No.275 and Plot No.985, Khata No.274, situated at Circle Kursakanta, Mauza Kuwari, District-Araria, are not subject matter of the aforesaid Land Encroachment Case No.31 of 2019-20/3 of 2022-23, the Circle Officer-Kursakanta, shall not disturb the peaceful possession of the petitioner, without taking recourse to the due process of law, if so warranted.

5. Accordingly, the present writ petition stands disposed off.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.08.2023
Transmission Date	NA

