

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8119 of 2023

Jagdish Yadav Son of Sumit Yadav Resident of Village-Baisi, Police Station
-Karjaian, District-Supaul.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secreary, Govt. of Bihar, Patna.
2. The Secretary, Road Construction Department, Govt. of Bihar, Patna.
3. The District Magistrate, Supaul.
4. The Executive Engineer, Road Construction Division, Supaul.
5. The Superintendent of Police, Supaul.
6. The Sub Divisional Officer, Birpur, Supaul.
7. The Deputy Commissioner of Land and Revenue, Birpur, Supaul.
8. The Circle Officer, Raghapur, Supaul.
9. The Officer Incharge, Karhain Bazar Police Station, Supaul.
10. Baba Hans Company Limited, through its Director, having its Office at -Plot
No. 162, 402, Bhola Apartment, Anandpuri West, Boring Canal Road, Patna-
800001.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Nitish Kumar, Advocate Mr Deepak Pd.Sinha, Advocate
For the Respondent/s	:	Mr.Uday Shankar Sharan Singh (Gp 19)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

- 2 23-11-2023 Heard learned counsel for the petitioner and the State.
2. Present writ petition has been filed for a direction to the respondent authorities to construct the road on the old road and not after encroaching the land of the petitioner mentioned in paragraph 5 of the writ petition.
3. Learned counsel for the petitioner submits that after registry of the land in favour of the petitioner, the petitioner filed Mutation appeal No. 1/93 and 2/93 before the DCLR, Birpur for mutation of the land in his fravour. One Narsingh Yadav also filed a case before the said DCLR as Case no. 5/93-



94 objecting the mutation of land in the name of the petitioner. However, said appeal was allowed in favour of the petitioner. Petitioner is also paying rent of the land in question.

4. Learned counsel appearing for the State has filed counter affidavit stating therein that the land claimed by the petitioner is in fact Government land, and as such, writ petition is not maintainable. Furthermore, rent receipt does not provide any proof of ownership of the petitioner. It is further stated that the dispute of title can only be adjudicated by the competent civil court.

5. The question as to whether land in question is a raiyati land of the petitioner or Government land, is a question of fact and there is great deal of dispute on that question which would require detailed examination of evidence. The same cannot be decided by a writ and proceeding under Article 226 of the Constitution of India would not be appropriate for the decision of the question.

6. Writ petition is accordingly dismissed with liberty to the petitioner to file proper suit before the civil court of competent jurisdiction.

(Prabhat Kumar Singh, J)

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