

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8782 of 2023

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Brajesh Kumar, S/o Haridwar Sharma, Resident of Village-Kutlupur, House No. 51, P.S. Alipur, District-Gaya, at present Kharkhura, Tulsi Colony, House No. 1003, Ward No. 3, P.s. Delha, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary Urban Development and Housing Patna.
2. District Magistrate, Gaya.
3. Commissioner Gaya Municipal Corporation, Gaya.
4. Sr. S.P. Gaya Police, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kameshwar Singh, Advocate
For the Respondent/s	:	Mr.Md. Khurshid Alam (AAG-12)
		Mr. Rabindra Kumar Priyadarshi, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-06-2023

The instant writ application is filed seeking a direction to the respondent authorities to remove an encroachment from a land, more fully described in the memorandum, gifted by one individual to the State of Bihar. It is very pertinent that despite the removal of encroachment sought for and the averment that the appropriate respondent authorities are not taking any steps against the encroacher, neither the encroacher has been named in the writ petition nor impleaded in the party array. The gift asserted is seen from Annexure-1 and if it is valid and accepted



by the State, it is for the State to take appropriate action for removal of encroachment, if any. Even the petitioner, a public spirited person, could proceed under the Bihar Public Land Encroachment Act, 1956. It is not for this Court in a Public Interest Litigation to look into conflicting claims of title or possession and find an encroachment and direct its removal. Neither could the Revenue authorities be directed to peremptorily remove such encroachments without hearing the encroachers and without adjudicating upon their claims of title and possession. When such adjudication is provided under a definite statute, even a public spirited person should avail of such remedies and not approach this Court with a Public Interest Litigation, that too without impleading the affected party.

The writ petition stands dismissed *in limine*.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	28.06.2023
Transmission Date	

