

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10814 of 2020

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YOGESH KUMAR Son of Chandrajeet Yadav r/o of village- More, P.s.-
Shivsagar, District- Rohtas

... .. Petitioner/s

Versus

1. The State of Bihar through the District Collector, Rohtas
2. The District Collector, Rohtas
3. The Sub Divisional Officer, Sasaram, Rohtas
4. The Circle Officer, Shivsagar, Sasaram, Rohtas

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Yadav, Advocate
		Mr. Sushant Kumar, Advocate
For the Respondent/s	:	Mr. D.K. Prasad, GP-14

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 06-11-2023 Heard learned counsel for the parties.

2. This writ application has been filed for the following reliefs:

“(a) To direct respondents to construct the pucca house of petitioner which was illegally demolished by the respondents.

(b) To direct the respondents to pay the compensation for illegal demolition of pucca house according to the land acquisition act.

(c) To direct the respondents to take action against the person who are responsible for illegal demolition of house situated over Khata No. 205, plot No. 676 area 1.5 Dec. at Mauza- Mor, PS – Shivsagar, District – Rohtas.”



3. It is the contention of the petitioner that ancestors of the petitioner were living on the plot in question after constructing pucca house for the last hundred years and now the petitioner is residing over the said plot. Ancestors of the petitioner were illiterate and as a result of which in the 1971, when survey of the land in question was going on, this plot was registered in the government records as a Bihar Sarkar and when they came to know about the said registration of the plot, the grandfather of the petitioner, namely, Chandrajeet Yadav raised objection and filed a case before the Circle Officer, Shivsagar as a result of which a Bandobasti Case No. 9 of 1982-83 was registered and inquiry was done and it was found that the house of the petitioner is situated on the land in question and for bandobasti a recommendation was made to DCLR in favour of the petitioner on 24.10.1982. He further submits that proceeding under Sections 144, 145 CrPC was also initiated in the court of learned Sub Divisional Magistrate, Sasaram *vide* case No. 256 of 2010 and the same was decided in favour of the petitioner on 14.03.2014 (Annexure-2). It is next submitted that a revision bearing Cr. Revision Petition No. 243 of 2014 was filed against the above mentioned order before learned Additional District & Sessions Judge-10, Sasaram at Rohtas and



this case was also decided in favour of father of the petitioner on 23.09.2019 (Annexure-3). He further submits that suspicion has been raised against the petitioner and in order to grab the land of the petitioner, encroachment proceeding was initiated without giving any proper notice to the petitioner. Therefore, petitioner prays that direction be issued to the respondent authorities to construct pucca house and to pay compensation for the demolition of house on the land in question.

4. However, by way of filing counter affidavit, learned counsel for respondents submits that as a matter of fact, house of the petitioner was demolished in compliance of the order dated 05.09.2019 of the High Court in MJC No. 1226 of 2017 arising out of CWJC No. 1330 of 2016. In the encroachment proceeding, total 78 encroachments had been removed along with the petitioner's encroachment which had been prepared over Aam Public Land and as per the Khatiyani the land in question was recorded as Anabad Sarva Sadharan. It is further submitted that against the removal of the said encroachment, petitioner and two others have already filed a title suit bearing Title Suit No. 1120 of 2019 with a relief that no coercive step be taken by the defendants/State of Bihar against the plaintiff with respect to the disputed land and in the said



plaint the plaintiffs have admitted in paragraph No. 11 that two notices have been served upon the plaintiffs/petitioners with respect to removal of the encroachment and only after that demolition was done by the respondent authorities. It is lastly submitted that pursuance of multiple remedy for same relief before different fora renders the present petition non-maintainable under Article 226 of the Constitution of India. In this connection he relies on the judgment passed by Hon'ble Supreme Court in *Satya Pal Anand vs State of M.P. & Ors* reported in **2016 (10) SCC 767**.

5. Taking into consideration the entire facts and circumstances of the case and law laid down by the Hon'ble Apex court in the case of *Satya Pal Anand vs State of M.P. & Ors* reported in **2016 (10) SCC 767**, I am of the opinion that the present petition under Article 226 of the Constitution of India is not maintainable. This writ petition is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

Harsh/Navya

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