

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9613 of 2023

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Vijay Kumar Barnwal @ Vijay Prasad Barnwal Son of Satyanarayan Prasad,
Resident of Village/At Sareya Ward No. 04, Adarsh Society, P.S. Gopalganj,
District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land and Revenue Reforms Department, Bihar, Patna.
2. The District Magistrate Cum Collector, Gopalganj.
3. That Additional Collector, Gopalganj.
4. The Sub-Division Officer Sadar, Gopalganj.
5. The Sub-Divisional Police Officer, Gopalganj.
6. The Circle Officer, Sadar Anchal, Gopalganj.
7. Sri Anil Kumar Singh Son of Sri Munshi Singh, Resident of Village/At-Adarsh Society, Sareya Ward No. 04, P.S. Gopalganj Town, District-Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Javed Aslam
For the Respondent/s : Mr.Raj Kishore Roy (Gp18)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 07-12-2023 Heard learned counsel for the petitioner and State.

2. This writ application has been filed against order, contained in Memo No. 1141/Go dated 15.05.2023, passed by the respondent no. 4 & 5, whereby and whereunder the petitioner has been directed to remove the wall constructed in 10 feet wide road situated in Ward No. 04, Adarsh Society, Gopalganj constructed under Chief Minister Area Development Scheme commonly used by the public (Annexure – 13 to the writ application).



3. At the outset, learned counsel for the State raises preliminary objection and submits that petitioner has got an alternative remedy by way of filing appeal under Section 11 of the Bihar Public Land Encroachment Act, 1956 before the Collector, Gopalganj / Respondent No. 2. Section 11 of the Bihar Public Land Encroachment Act, 1956 reads as under:

“[11. Appeals. – (1) From every order passed under Sections 6, 7 or 8 an appeal shall lie -

(i) If such an order is passed by any officer other than the Collector of the district, to the Collector of the district or to any officer specially empowered by the State Government, by notification in the official Gazette;

(ii) If such order is passed by the Collector of the district, to the Commissioner of the Division.

(2) An appeal under this section shall be preferred within 30 days of the passing of the order appealed against;

Provided that an appeal may be admitted after the said period when the appellate authority is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.”

4. In view of the aforesaid facts and circumstances, petitioner is directed to file appeal before the Collector, Gopalganj in accordance with law within a period of six weeks from today.

5. If such appeal is filed by the petitioner within the stipulated time period, the authority concerned shall dispose of



the same in accordance with law after hearing the parties, preferably, within a period of six months from the date of filing of such appeal.

6. It goes without saying that if any question of limitation arises before the authority concerned, the same shall be considered taking into consideration the fact that the petitioner was pursuing the issue before this Court under Article 226 of the Constitution of India.

7. Writ petition stands disposed of with the aforesaid observations.

(Prabhat Kumar Singh, J)

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