

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10969 of 2022**

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Dr. Kameshwar Jha @ Kameshwar Jha Son of Late Shreekant Jha Resident of  
Village- Bariwan, P.O.- Sahsaal, P.S.- Basrahai, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Land Reform Department,  
Patna, Bihar.
2. The Director, Land Reform Department, Patna, Bihar.
3. The District Magistrate Saharsa, District- Saharsa.
4. The Additional District Magistrate Saharsa, District- Saharsa.
5. The Sub-Divisional Officer (SDO) Saharsa, District- Saharsa.
6. DCLR Saharsa, District- Saharsa.
7. The Circle Officer Sonbarsa, District- Saharsa.
8. Thana In-charge Basrahi P.S.- Basrahi, District- Saharsa.
9. Mrs. Manju Devi Wife of Arun Jha Resident of Village- Bariwan, P.S.-  
Basrahi, District- Saharsa
10. Arun Jha Son of Late- Rameshwar Jha Resident of Village- Bariwan, P.S.-  
Basrahi, District- Saharsa

... .. Respondent/s

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**Appearance :**

|                             |   |                                 |
|-----------------------------|---|---------------------------------|
| For the Petitioner/s        | : | Mr. Mrityunjay Jha, Advocate    |
| For the State               | : | Mr. Navnit Kumar, A.C. to GP-18 |
| For the Private Respondents | : | Mr. Sanjay Kumar, Advocate      |

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL ORDER**

4      18-04-2023                      Heard learned counsel for the petitioner, learned  
  
counsel for the respondent-State and learned counsel for the  
  
respondent nos.9 and 10.

The petitioner has filed the instant application for the  
  
following relief(s):

*“i. For direction to the respondents  
authorities who immediately stopped the construction  
work in the land of petitioner bearing Khata no.-815,*



*Plot no.-4878 Area-13 decimal tola-Bariban Mouza-Sahsaul P.S-Basrahi District-Saharsa. Respondent no.-9 & 10 illegally constructed in the land of petitioner. Rest Respondents no.-4 to 8 openly help the private respondents for construction on the land of petitioner.*

*ii. For that this writ application under Qua Warranto for direction to demolish illegal construction of private respondent on said land.*

*iii. To grant any other relief(s) to which the petitioner found entitled in the facts and circumstances of the case.”*

At the outset, learned counsel appearing for the respondent nos.9 and 10 raises a preliminary objection with respect to the maintainability of the writ application for a dispute between two private individuals ie the petitioner on one hand and the respondent nos.9 and 10 on the other specially for the reason that both the petitioner and the respondent nos.9 and 10 belong to the same family and title suits are also pending between them in the learned trial Court.

Learned counsel for the petitioner submits that the instant application would be maintainable under Article 226 of the Constitution of India. It is further submitted that although it is true that the dispute is between the petitioner and the respondent nos.9 and 10 and also that the respondent no.10



happens to be the son of the full brother of the petitioner, however, so far as the title suits are concerned, the subject matter of the instant application is not the subject matter in the title suits. Learned counsel further submits that from perusal of paragraph no.9 of the writ application, it would transpire that on the petition filed by the respondent no.9 under the Bihar Land Disputes Resolution Act, 2009, the respondent no.9 has obtained an order/direction as contained in letter dated 16.6.2022 of the D.C.L.R., Saharsa. Learned counsel for the petitioner submits that he may be permitted to file an interlocutory application amending the prayer in the main writ application.

The application is opposed by learned counsel appearing for the respondents.

Having heard learned counsel for the parties and taking into consideration the averments made, in the opinion of this Court, the instant writ application being a dispute between family members, the respondent no.10 being the son of the full brother of the petitioner and the respondent no.9 being the wife of respondent no.10, the writ application is not maintainable.

So far as the prayer made by learned counsel for the petitioner to amend the prayer and to challenge the letter/order dated 16.6.2022 passed by the D.C.L.R., Saharsa as mentioned



in paragraph no.9 of the writ application is concerned, in the opinion of the Court, as has been stated at the Bar that the said direction has been passed on an application filed by the respondent no.9 under the B.L.D.R. Act, 2009. The petitioner has an alternative and efficacious remedy of preferring an appeal under the said Act. For this reason also, the writ application is not maintainable.

There being no merit in the writ application, the same is dismissed.

**(Partha Sarthy, J)**

Saurabh/-

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