

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11477 of 2023

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1. Kundan Kumar Son of Late Mithilesh Singh Resident of village Repura P.S.- Sitamarhi District - Nawada.
 2. Lal Keshwar Singh Son of Late Ganauri Singh, Resident of village Repura P.S.- Sitamarhi District - Nawada.
 3. Pankaj Kumar, son of Umesh Prasad, Resident of village Repura P.S.- Sitamarhi District - Nawada.
 4. Dharmendra Kumar, Son of Shiv Kumar, Resident of village Repura P.S.- Sitamarhi District - Nawada.
 5. Ram Suresh Sharma, son of Late Ganauri Singh, Resident of village Repura P.S.- Sitamarhi District - Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Revenue and Land Reforms Govt. of Bihar.
2. The Commissioner Magadh Division, Gaya.
3. The District Magistrate, Nawada.
4. The Sub-divisional Officer Rajauli Nawada.
5. The Anchal Adhikari Miskour, Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nand Kishore Prasad Sinha, Advocate
For the Respondent/s : Mr. Manish Kumar (GP-4)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-08-2023

1. The Public Interest Litigation is filed to remove an encroachment from the Water Channel situated over Khata No. 316, Plot Nos. 2205 and 2208 recorded as Sarvshadaran Paiyan which is connected with Telaiya river from which water flows for the purpose of irrigation of the lands of



the petitioner and other adjacent farmers.

2. It is stated that the said Water Channel has been encroached by named persons, none of whom are impleaded in the writ petition. It is the specific averment of the petitioner that the named persons have constructed house and cattle sheds thus blocking irrigation facilities to more than hundred acres of land. The petitioner also claims that he is a farmer who has been affected by such encroachment.

3. As noticed by us, the encroachers have not been impleaded as party respondent. We were not inclined to entertain the writ petition in which circumstance the petitioner sought for a direction for consideration of representation filed as Annexures- 1 and Annexure-2 series, the first in 2021 and the next in 2023. In fact, the remedy for the petitioner is before the Civil Court if irrigation is obstructed by the encroachment. Again, the petitioner could proceed under the Bihar Public Land Encroachment Act, 1956.

4. Leaving open the liberty to the petitioner to avail such remedies, we close the writ petition, without prejudice to the petitioner's contention in such alternate remedies. We decline to exercise the jurisdiction under Article 226 of the Constitution of India, especially finding efficacious



alternate remedies being available; where the affected parties will have to be impleaded and evidence led to establish the rights for irrigation and negative the claims if any raised by the encroachers.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

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CAV DATE	
Uploading Date	21.08.2023
Transmission Date	

