

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16574 of 2008

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Ashok Sah, s/o late Tridhan Sah, r/o village-Gachhi Tola, Ward no. 10, PS-Town, Dist-Begusarai

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The District Magistrate, Begusarai.
3. The Sub Divisional Officer, Begusarai.
4. The Circle Officer, Begusarai.
5. Pabiya Devi, w/o Yugal Mahto, r/o Atrup Nagar, PS-Barauni, Dist-Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Nakul Kr.Jamuar, Advocate
For the Respondent/s : Mr.AAG 1

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 17-02-2023

1. The present petition has been filed for quashing the order dated 31.05.2008, passed by the Circle Officer, Begusarai, whereby and whereunder the petitioner has been directed to vacate the land on which, he has been running his tea and vegetable shops.

2. The brief facts of the case, according to the petitioner, are that the respondent no. 5 Pabiya Devi got a piece of land registered in her name, however, the said land was surrounded by a boundary wall and there was no way of ingress and egress, hence, she is using her might to uproot the petitioner and that is why, the Circle Officer, Begusarai has passed the impugned order dated 31.05.2008.



3. The learned counsel for the petitioner has submitted that an area of 5 dhurs, out of the land in question, where the petitioner is running a tea shop, was settled in the name of the father-in-law of the petitioner by the erstwhile land-lord, whereafter, the same was given to the father of the petitioner, however, upon an enquiry made by this Court, no authentic/ legal proof thereof, has been shown. Nonetheless, it has not been disputed that the remedy against the order passed by the Circle Officer, Begusarai lies before the Collector, Begusarai.

I have heard the learned counsel for the parties and gone through the materials on record, from which it is apparent that the present case not only involves disputed question of facts but also is not maintainable on account of non-exhaustion of the alternative remedy available to the petitioner under the law, inasmuch as the petitioner has the remedy of approaching the Collector, Begusarai against the order dated 31.05.2008, passed by the Circle Officer, Begusarai. In this regard, it would be apt to refer to a judgment rendered by the Hon'ble Apex Court in the case of *Nivedita Sharma v. Cellular Operators Association of India and others*, reported in (2011) 14 SCC 337 and *Punjab National Bank and others v. Atmanand Singh and others*



reported in *(2020) 6 SCC 256*.

Having regard to the facts and circumstances of the case and for the reasons mentioned herein-above, the present writ petition is held to be not maintainable, hence is dismissed.

(Mohit Kumar Shah, J)

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CAV DATE	NA
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