

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15480 of 2022

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1. Vikash Kumar S/o Sri Yugal Kishore Prasad, Resident of Village Sawajpura, Post- Jaipur, P.S.- Mehendiya, District- Arwal.
 2. Pushpit Kumar Vats S/o Pramod Shankar Sharma, Near Mahadeosthan Village- Sawajpura, P.S.- Mehendiya, P.O.- Jaipur, District- Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Irrigation Department Government of Bihar.
2. The District Magistrate, Arwal.
3. The Sub Divisional Officer, Irrigation, Sub-Divisional Aganur, Arwal.
4. The Circle Officer Kaler, District- Arwal.
5. Suresh Yadav S/o Sri Rajdeo Yadav, R/o Village- Sembhua, P.S.- Mahandiya, District- Arwal.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Adv Mr. Binod Kumar Sinha, Adv Ms. Ritika Rani, Adv
For the State	:	Mr. Binay Kumar Pandey AC to GA-2
For the Respondent no. 5:	:	Kumar Pankaj, Adv

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 21-02-2023

Heard learned counsel for the parties.

The petitioners have approached this Court by filing the present writ application in the nature of Public Interest Litigation seeking direction to take steps for removal of encroachment caused by respondent no. 5 from Plot No. 29, appertaining to Khata No. 84, Thana No. 171, Mauza-Sembhua. The said plot of land according to the petitioners was *khatiyani*



land of Dasai Gope, which he had donated to the local villagers for irrigation whereafter the villagers have constructed a *Canal* (water channel) over the said land for irrigation of agricultural land.

Our attention has been drawn to the averments made in I.A. No. 1 of 2023, wherein, it has been asserted that the persons other than respondent no. 5, have also encroached upon the said land.

In response to a query made by this Court, Mr. Dinu Kumar, learned counsel appearing on behalf of the petitioners, has submitted that there has been investment over the said piece of land, of public money, for construction of *Canal (Karha)* for irrigation purposes. He has further submitted that it is the responsibility of the State respondents to ensure that the water bodies are totally protected and preserved. In support of his submissions, he has relied upon a decision of this Court dated **18.10.2022** passed in **CWJC No. 7857 of 2020 (Bidhan Kumar Vs. the State of Bihar & Ors)**. He has also placed reliance on a decision rendered by Hon'ble Supreme Court in the case of *Jagpal Singh & Ors Vs. the State of Punjab & Ors* reported in **(2011) 11 SCC 396**, referring specially to paragraph no. 22 of the said judgment.



We have perused the pleadings on record accordingly. It appears from Annexure-1 of the writ application, that there is a title suit filed by one Satish Kumar and Others, which is pending before the court of learned Sub-Judge-1st, Arwal, bearing Title Suit No. 20 of 2020, in which respondent no. 5 is a defendant.

In view of the fact that a title suit is pending, before the trial Court and the issue of title over the land in question is involved, we are not inclined to interfere in the present proceeding under PIL.

This application is accordingly dismissed.

I.A. No. 1 of 2023 stands disposed of.

(Chakradhari Sharan Singh, ACJ)

(Jitendra Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.02.2023
Transmission Date	NA

