

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16543 of 2023

1. Subhash Kumar Singh Son of Dev Narayan Singh, Resident of petitioner Village- Badiya Raipura, Balhampur, P.S. - Simri Bakhtiarapur, District - Saharsa (Bihar).
2. Rajiv Kumar Ranjan, son of Kundan Pd. Singh, Resident of petitioner Village- Badiya Raipura, Balhampur, P.S. - Simri Bakhtiarapur, District - Saharsa (Bihar).
3. Narayan Singh, S/o Upendra Singh, Resident of petitioner Village- Badiya Raipura, Balhampur, P.S. - Simri Bakhtiarapur, District - Saharsa (Bihar).
4. Dilip Singh, Son of Ram Bilash Singh, Resident of petitioner Village- Badiya Raipura, Balhampur, P.S. - Simri Bakhtiarapur, District - Saharsa (Bihar).
5. Govardhan Singh, son of Ramji Singh, Resident of petitioner Village- Badiya Raipura, Balhampur, P.S. - Simri Bakhtiarapur, District - Saharsa (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Bihar, Patna - 800001.
2. The District Magistrate, Saharsa.
3. The Sub-Divisional Officer, Simri Bakhtiarapur, Saharsa.
4. The Sub-Divisional Public Complain Redressal Officer, Simri Bakhtiarapur, District - Saharsa.
5. The Circel Officer, Simri Bakhtiarapur, District - Saharsa.
6. Ram Swarup Sada, S/o Late Uchit Sada, Respondent no. 6 of Village- Badiya, Raipura, Balhampur, P.S. Simri Bakhtiarapur, District - Saharsa.
7. Yogendra Sada, S/o Late Lakhan Sada, Respondent no. 7 of Village- Badiya, Raipura, Balhampur, P.S. Simri Bakhtiarapur, District - Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. P.K. Shahi, A.G.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 02-12-2023

Heard the parties.

2. The present petition has been preferred



for the issuance of an appropriate writ/writs, order/orders and direction/directions for commanding and directing the authorities to remove the encroachment on the way/public road of Area about 9.68 decimals of petitioners and entire villagers from illegal and forceful encroachment of respondent nos. 6 to 7 who have not removed their encroachment the same in spite of the several orders, notices and directions of different dates of concerned authorities to private respondent nos. 6 to 7 and further ordered to remove encroachment of original public road/public land of the petitioners and villagers.

3. Learned Counsel for the petitioners submit that the land in question situated in Mauza-Balhampur, Thana No. 75, Khata No. 203, Khesra No.- 1181 (area-9.68 decimals), within the Circle- Simri Bakhtiyarpur, Saharsa has been recorded as 'Gairmajaruwa Aam Bihar Sarkar' as a public land which has been encroached by the respondent nos. 6 and 7.

4. In this regard, they submitted application before the respondent no. 5, the Circle Officer, Simri Bakhtiyarpur, Saharsa in the year 2016 which failed to elicit any response.

5. Later, in 2018 another application was preferred before the respondent no. 4, the Sub-Divisional Public



Complaint Redressal Officer, Simri Bakhtiyarpur, Saharsa but again without any success.

6. However, later the respondent no. 5 submitted a report accepting that the respondent nos. 6 and 7 are encroachers and further vide his office letter no. 200 dated 30.01.2019 informed the respondent no. 4 that the encroachment stands removed.

7. The case of the petitioners is/are that the encroachment still remains which forced them to file present P.I.L.

8. Learned State Counsel, on the other hand, has taken this Court to the prayer portion in paragraph 1 as also paragraph 7 to show that it is a private interest of the petitioners which they have given the colour of Public Interest Litigation.

9. It is his submission that if the petitioners have any grievance, they can very well prefer a proper petition under the Bihar Public Land Encroachment Act, 1956 (henceforth for short 'the Act') before the appropriate authority. Instead, the present P.I.L.

10. We accept the submissions put forward by learned State Counsel. In our considered view, when there is an Act to take care of such grievance, filing of writ petition



more so the Public Interest Litigation is unwarranted when it is out and out their private interest.

11. It is for the petitioners to decide whether to approach the concerned authority with proper petition or not. So far as the present petition is concerned, it is frivolous, devoid of merit and is accordingly dismissed with a cost of Rs. 10,000/- to be paid to the Bihar State Legal Services Authority. If the same is not paid within a period of one month, the Bihar State Legal Services Authority would be entitled to recover it from the petitioners as arrear due on land under the appropriate enactment.

12. It is made clear that we have not touched upon the merit of the case and if any such petition is filed by the petitioners, the same has to be decided on its own merit after hearing the concerned parties.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Neha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.12.2023
Transmission Date	

