

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.231 of 2023

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1. Prem Nath Gupta @ Prem Nath Saw Son of Shiv Nath Sao Resident of Ward No.21, Near Moti Chawk, Chhoti Khagau, P.S. and P.O. Khagaul, District Patna.
 2. Ram Nath Gupta Son of Shiv Nath Sao Resident of Ward No.21, Near Moti Chawk, Chhoti Khagau, P.S. and P.O. Khagaul, District Patna.
 3. Satish Kumar @ Satish Kumar Gupta Son of Shiv Nath Sav. Resident of Ward No.21, Near Moti Chawk, Chhoti Khagau, P.S. and P.O. Khagaul, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Education Department, Government of Bihar, Patna.
3. The District Magistrate, Patna.
4. The District Education Officer, Patna.
5. The Rajkiye Tribhuvan High School, Naubatpur Post and P.S. Naubatpur, District, Patna.
6. The Principal Rajkiye Tribhuvan High School, Naubatpur, Patna.
7. The Deputy Collector Land Reform, Danapur, Patna.
8. The Circle Officer, Naubatpur, Patna.
9. The Station Head Officer (S.H.O.) Naubatpur P.S., Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Uday Prasad, Adv. With
	:	Mr. Jitendra Kumar Bharti, Adv.
For the Respondent/s	:	Mr. Subhash Chandra Mishra (Sc16)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 20-06-2023

Heard learned counsel for the petitioners and

learned counsel for the State.

2. The petitioners have filed the present writ

petition directing the respondent not to put any obstruction and

obstacle in peaceful possession of the petitioners over the

paternal ancestral property of the land of Khata No. 533, C.S. Plot No. 3726, Area 30.5 decimal land out of total area 61 decimal land situated under Thana No. 160 at Mauza Ibrahimpur, P.S. Naubatpur, District Patna.

3. Counsel further prays that no any disturbance and hindrance over the said land be made at the time of measurement, demarcation, construction and erection of the boundary wall on his land and also not to make any interference in the exclusive possession of the petitioners.

4. Counsel further submits that hindrance used to be made by the respondent no.5 who is in no way concerned with the petitioners' land. Counsel further submits that he has filed his application before the S.H.O. Naubatpur for measurement of land and copy of the same has been sent to Circle Officer, Naubatpur, Patna.

5. Counsel for State submits that petitioners' grievances are against the private person, therefore writ is not maintainable.

6. Upon hearing the parties and going through the records, it transpires that the land is the Khatiyani land of the petitioners. He has annexed the genealogy as well as latest rent receipt in the writ petition. There is special provision under Rule

23 of Bihar Tenancy Rule under B.T. Act which states as follows:-

23. Measurement of lands where necessary, and deposit of cost thereof.- [1] *If the area of the land has not been already ascertained by measurement made by competent agency under the authority of Government or, if for sufficient reason a further measurement is considered desirable, the officer shall order, the lands to be measured and shall estimate the cost of measurement in accordance with the Rules for the measurement of lands in partition cases, and shall require the application to amount either at once or in such instalments as he may deem fit.*

[(2)(i)] Any person may file a petition in Form-36 for the measurement of his raiyati land before the Anchal Adhikari of that area or through online. After receipt of such petition along with Amin fee for the measurement of raiyati land, the Anchal Adhikari will ensure measurement of such land within 60 working days from the date of deposit of Amin fee. Amin fee, as fixed by the

Government, will be deposited by the applicant through the nazir receipt or through online in the Anchal Nazarat. In such cases, in which petition is filed for immediate measurement, the petitioner will have to deposit Amin fee in the Anchal Nazarat as fixed by the Government and after issuance of Nazir Receipt, measurement of land will be ensured by the Anchal Adhikari within maximum seven working days.

(ii) In such cases, where law and order problem is involved, such land will be measured at the instance of Revenue Officer not below the rank of Deputy Collector Land Reforms without realizing Amin fee. After measurement of land by the Anchal Amin, measurement report will be submitted by the Amin with map within three working days. Anchal Amin will also enclose Field Book with his measurement report and submit the same in the Anchal office. Measurement can be done by conventional jarib, ETS or any other available modern technology.

7. It is the right of the petitioners that their land be measured upon depositing all cost before the Circle Officer, Naubatpur, Patna, as per Rule 23 of the Bihar Tenancy Rule of B.T. Act. From the annexure, it transpires to this Court that petitioners have filed application before the S.H.O., Naubatpur which is wrong forum. Therefore, he is directed to file fresh petition under Rule 23 of the Bihar Tenancy Rule of B.T. Act before the Circle Officer with the cost of measurement and the Circle Officer is directed to measure the land of the petitioners within 3 months from the date of filing the application.

8. With this direction, this civil writ application is hereby disposed of.

(Dr. Anshuman, J.)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	