

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.161 of 2023

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1. Kapildev Yadav S/o Valai Yadav Resident of Village- Durgichak Habidih, Labani Jarso, P.S.- Baheri, District- Darbhanga.
 2. Ganga Yadav, S/o Thakko Yadav Resident of Village- Durgichak Habidih, Labani Jarso, P.S.- Baheri, District- Darbhanga.
 3. Jaiprakash Yadav, S/o Thakko Yadav Resident of Village- Durgichak Habidih, Labani Jarso, P.S.- Baheri, District- Darbhanga.
 4. Radha Raman Yadav, S/o Ramnath Yadav Resident of Village- Durgichak Habidih, Labani Jarso, P.S.- Baheri, District- Darbhanga.
 5. Revati Raman Yadav, S/o Ramnath Yadav Resident of Village- Durgichak Habidih, Labani Jarso, P.S.- Baheri, District- Darbhanga.
 6. Suresh Yadav, S/o Ram Prakash Yadav Resident of Village- Durgichak Habidih, Labani Jarso, P.S.- Baheri, District- Darbhanga.
 7. Lal Yadav, S/o Ram Prakash Yadav Resident of Village- Durgichak Habidih, Labani Jarso, P.S.- Baheri, District- Darbhanga.
 8. Surendra Yadav, S/o Ram Prakash Yadav Resident of Village- Durgichak Habidih, Labani Jarso, P.S.- Baheri, District- Darbhanga.
 9. Phulo Yadav, S/o Raja Ram Yadav Resident of Village- Durgichak Habidih, Labani Jarso, P.S.- Baheri, District- Darbhanga.
 10. Sudhir Yadav, S/o Raja Ram Yadav Resident of Village- Durgichak Habidih, Labani Jarso, P.S.- Baheri, District- Darbhanga.
 11. Naresh Yadav, S/o Naresh Yadav Resident of Village- Durgichak Habidih, Labani Jarso, P.S.- Baheri, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The District Magistrate, Darbhanga.
3. The District Development Commissioner, Darbhanga.
4. The Sub- Divisional Officer, Darbhanga.
5. The Executive Engineer, Department of Rural Works, Darbhanga.
6. The Circle Officer, Behari, Darbhanga.
7. The Block Development Officer, Behari, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Shama Sinha, Advocate
For the State	:	Mr. Kameshwar Prasad Gupta, GP-10
		Mr. Virendra Kuer, AC to GP-10
For the Intervenor	:	Mr. Sarbottam Kumar Sarkar, Advocate

**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT**

Date : 22-09-2023

Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the Intervenor/private respondent.

Re.:- I.A. No. 01 of 2023

2. The present intervenor application has been filed by two persons namely, Nand Kumar Yadav and Rajnath Yadav to be added as party respondent nos. 8 and 9 in the present writ petition.

3. Learned counsel for the intervenor submits that he is necessary party of this present writ petition due to the reason that the prayer of petitioners has been made for Plot Nos. 1534(Old)/6691(New), 1540 (Old)/6574(New), 1529(Old)/6688 (New), 1528(Old)/6688 and 1530 (Old)/6688(New), total 1 Bigha, 11 Katha and 10 Dhur of the land situated in Mouza- Durgichak, P.S.- Behari, District- Darbhanga and those lands were subject matter of Title Suit No. 39 of 2008 which was between the father of one of the petitioner and the intervenor petitioner. Counsel further submits that the said Title Suit No. 119 of 1999 was dismissed due to non-prosecution, thereafter another title suit was filed with the same suit lands bearing Title Suit No. 39 of 2008 it was again dismissed due to non-

prosecution, thereafter with same subject matter the petitioners have filed third Title Suit No. 356 of 2022 in which the present intervenor is also party. The order sheets and plaints are annexed as Annexures of I.A. No. 1 of 2023 vide Annexure-R/6, Annexure-R/6/1, Annexure-R/6/2.

4. In this view of the matter that there is a direct contest between the petitioners and intervenor petitioner.

5. Learned counsel for the State has no objection for the same.

6. Learned counsel for the petitioner vehemently opposes to add the present intervenor petitioner as party and submits that the relief made in the Title Suit and relief made in the writ petition are different. Counsel further submits that in the writ petition the relief has not been demanded against the intervenor petitioner rather relief has been sought against the State. Therefore, the I.A. making prayer to add intvervnor petitioner as private respondent nos. 8 and 9 is directed to be rejected.

7. Upon hearing the parties and particularly when the properties for which the relief has been made in the present writ petition and for the same properties three suits at three different levels out of which two suits were dismissed and one

suit is still pending in which the property of the suit and in the writ petition are identical. This Court is of the opinion that the intervenor petitioner is necessary and proper party in the present writ petition and therefore, this I.A. No. 1 of 2023 is hereby allowed.

8. The counsel for petitioners is directed to add the intervenor petitioners as private respondent nos. 8 and 9 in course of the day.

Re.:- CWJC No. 161 of 2023

9. Learned counsel for the petitioners submits that in the writ petition the prayer has been made that the respondent State be abstained from constructing public road under Pradhanmantri Sadak Yojna on the private land of the petitioners without following the due process of law for acquiring the private land. Counsel for the petitioners admits that it is true that for the land on which the road is under construction is subject matter of the title suit between petitioners and newly added private respondent nos. 8 and 9 which is still pending, in which some of the respondents filed W.S. and some of them have not filed W.S. till date.

10. Learned counsel for the State submits that the present writ petition is not maintainable due to the reason that

petitioners have no *locus standi* to raise this question at present as the petitioners have no title on the said land and their title is still under shadow and not decided by the competent Court as in those suits it is either petitioners or their ancestors were plaintiffs and therefore, on the pleadings of the petitioners this writ petition is not maintainable at all.

11. Learned counsel for the private respondent on the other hand submits that the rasta which is under construction is already Kacha rasta/Kharanja rasta in existence since long. Private respondent submits that he has no objection if construction shall be made as it was already Kharanja rasta and now under Pradhanmantri Sadak Yojna the said rasta shall be improved which is usable for all petitioners as well as for respondents. Counsel further submits that the said title suit has been firstly filed by the ancestor of the petitioners in the year 1999 which was dismissed due to non-prosecution, subsequently in the year 2008 for the same property another suit was filed which was also dismissed for default and then in the year, 2022 again suit has been filed for the third time.

12. In the light of the submissions made by counsel for the petitioners, counsel for the private respondents and counsel for the State, this Court is of the opinion that the

petitioners have no *locus standi* at present to raise such plea and therefore, this writ petition is dismissed.

13. So far as dismissal of two suits and pendency of third suit is concerned this Court is not expressing any opinion on the merit or demerit of the case.

14. In the background of the case, State is directed to complete the said work within six months from the date of this order.

(Dr. Anshuman, J.)

ravishankar/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	26.09.2023
Transmission Date	N.A.