

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.304 of 2023

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Ram Bihari Upadhyay S/o Late Tribhuan Upadhyay, R/o village - Chakrahasi
(rahsichak), P.S. - Buxar Mufassil, District - Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land reforms, government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Buxar.
3. The Circle Officer, Buxar, District - Buxar.
4. Ramashankar Yadav, S/o - Late Adyodhya Prasad @ Faujdar Yadav, age not known, R/o - village- Chakrahasi, P.S. - Buxar Mufassil, District - Buxar.
5. Dayashankar Yadav, S/o Late Ayodhya Prasad @ Faujdar Yadav, age not known, R/o - village- Chakrahasi, P.S. - Buxar Mufassil, District - Buxar.
6. Shiv Kumari Devi, W/o Ramashankar Yadav, age not known, R/o - village- Chakrahasi, P.S. - Buxar Mufassil, District - Buxar.
7. Rajesh Yadav, S/o Ramashankar Yadav, age not known, R/o - village- Chakrahasi, P.S. - Buxar Mufassil, District - Buxar.
8. Shivji Yadav S/o Late Algu Yadav, age not known, R/o - village- Chakrahasi, P.S. - Buxar Mufassil, District - Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Samrendra Kumar Jha, Advocate.
For the State	:	Mr. Raj Kishore Roy, GP-18.
For the Respondent No.4:	:	Mr. Kanhaiya Jee Tiwari, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 18-05-2023

Heard Mr. Samrendra Kumar Jha, learned counsel
for the petitioner, Mr. Kanhaiya Jee Tiwari, learned counsel for
the respondent no.4. The State is represented by Mr. Raj
Kishore Roy, learned GP-18.

The present writ application has been filed seeking



a direction upon the respondent authority to remove the encroachment from the land bearing Khata No. 203, Plot No.- 382, admeasuring area 10 decimals situated at Mauza chakrahasi (Rahsichak) in the District of Buxar. Further, relief has also been sought for to direct the respondent authorities to conclude the Encroachment Case No.06/2022-23.

In compliance to the order of this Court dated 15.03.2023, a counter affidavit has been filed on behalf of the Respondent Nos.2 and 3.

Mr. Roy, learned GP-18 with reference to the averments made in the counter affidavit submits, that pursuant to the direction of this Court notices have been issued to all the concerned and thereafter, measurement has been done in presence of the parties and after having found the encroachment over the land in question, the same has been removed. However, in Paragraph-18 of the counter affidavit, it is averred that so far the land encroached by Shri. Ramashanker Yadav is concerned the encroachment has been partially removed, however, in course of removing the encroachment on the request made by the wife of Ramashanker Yadav, that she will remove the pillar, which is found upon the encroached land; and as the construction is completely based



upon the said pillar, hence, a prayer has been made to allow her ten days time to construct a separate pillar over his own *Raiyati* land and accordingly, time has been allowed, failing which the encroachment will be removed by the authorities themselves.

It is further submitted that on the complaint made by private respondent, separate measurement has been done and it is found that the petitioner has also made encroachment over the public land. Hence, an encroachment proceeding bearing Encroachment Case No. 2/2023-24 has been initiated against him, which proceeding is now challenged by the writ petitioner by filing I.A. No.2 of 2023.

Having regard to the submissions made on behalf of the parties and considering the materials available on record, the writ application stands disposed of with a direction to the respondent-authorities to ensure the removal of entire encroachment as has been found in Encroachment Case No.6 of 2023, within the stipulated period prescribed in the counter affidavit.

Further the petitioner is also directed to appear before the Circle Officer within two weeks in Encroachment Case No.2 of 2023-24 and on his appearance the Circle



Officer would be under obligation to provide an opportunity to file his objection/reply and thereupon after giving opportunity of hearing to all the affected parties, pass necessary order under Section 6 (1) of the Bihar Public Land Encroachment Act. Till the final order, no coercive action shall be taken against the petitioner.

Accordingly, the present writ application stands disposed of with the aforesaid direction.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.05.2023
Transmission Date	NA

