

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.282 of 2020

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1. Most. Dulari Devi, W/o Late Rambinod Rai @ Vinai Ray, R/o Village-Bariyar Chak (Hasilpur), P.O. and P.S.-Nayagaon, District-Saran at Chapra, Pin-841217.
 2. Smt. Chandrawati Devi, W/o Sri Rajnath Rai, R/o Village-Bariyar Chak (Hasilpur), P.O. and P.S.-Nayagaon, District-Saran at Chapra, Pin-841217.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary Revenue and Land Reforms, Government of Bihar, Patna.
4. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
5. The District Collector, Saran at Chapra.
6. The District Land Acquisition Officer, Saran at Chapra.
7. The Deputy Collector Land Reforms, Sonpur, Saran at Chapra.
8. The Sub Divisional Officer, Sonpur, Saran at Chapra.
9. The Circle Officer, Sonpur, Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rananjay Kumar, Advocate Mr. Rajiv Ranjan, Advocate Mr. Arif Daula Siddiquie, Advocate Ms. Chhateshwari Kumari, Advocate
For The Respondent/S	:	Mr. Md. Khurshid Alam, AAG-12

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

9 11-04-2023 Heard learned counsel for the parties.

The petitioners have filed the instant application for
the following relief(s):-

*“(i) For directing the respondents to remove the
encroachment from the land of the petitioners, due to
illegal act of the authorities the encroachment over the
land of the petitioners have been made and the*



petitioner is compelled to approach this Hon'ble court by way of filing instant writ application Or;

(ii) For directing the respondents to pay adequate compensation to the petitioners and Government job to the spouse of the petitioners, for illegally encroaching the land of the petitioners by and by constructing "Viaks Bhawan" on the commercial land of the petitioner, which is one of the source of livelihood for the petitioner; appertaining to Tauji no. 2959, Thana no. 29, Khata no. 86, part of Khesra no. 14 &15 total area 2 katha 14 dhur (10.041 decimal) of land has been illegally encroached by the respondents, whereas the petitioner is paying rent of the land in question to the government and rent receipt has also been issued.

(iii) For any other appropriate relief/reliefs to which the petitioner is found entitled in the facts and circumstances of this case.

The land which is the subject matter of the instant application is an area of 2 *kathas* 14 *dhur* (10.041 decimal) of the land appertaining to Tauji no. 2959, Thana no. 29, Khata no. 86 and Khesra nos. 14 and 15 in Circle Sonpur in the District of Saran at Chapra.

It is the case of the petitioners that the petitioners had purchased the land in question through a registered sale deed which has been brought on record as Annexure-4 to the reply to supplementary counter affidavit filed on behalf of the petitioners. The respondent authorities in construction of the



Vikas Bhawan have encroached upon this purchased land of the petitioners. As such the instant writ application has been filed for the relief as mentioned herein above.

A counter affidavit has been filed on behalf of the respondents. It is submitted by learned counsel appearing for the respondents that the case of the respondents is that the grandfather of the vendor of the petitioners by a registered deed of gift dated 1.4.1960 (Annexure-A to the supplementary counter affidavit of respondent nos. 5 to 9) had gifted an area of 5 *kathas* appertaining to Khata no. 86 and Plot nos. 14 and 15 to the Government of Bihar for construction of a government building. It is further case of the respondents that once again during pendency of the writ application the land in question was measured by the Anchal Amin on the orders of the Circle Officer, Sonpur and in the said measurement also the Veterinary Hospital as well as the Vikas Bhawan were found to have been constructed over the land which was gifted by the grandfather of the vendor of the petitioners.

In response, learned counsel for the petitioners refers to and relies upon the measurement report of the Anchal Amin, Sonpur which is annexed to the counter affidavit of respondent nos. 5 to 9 who submit that from perusal of the same it would



transpire that the land which was purchased by the petitioners vide registered sale deed was encroached upon.

Having heard learned counsel for the parties and taking into consideration the submissions made together with the affidavits on record, it is not clear from the letter/ report dated 9.7.2022 of the Anchal Amin, Sonpur as to whether the land of the petitioners has been encroached upon or not. Disputed questions of fact arising in the instant application, the same cannot be decided by this Court sitting in its writ jurisdiction under Article 226 of the Constitution of India.

Thus liberty is granted to the petitioners to move the Civil Court of competent jurisdiction for the redressal of his grievances.

This application stands dismissed.

(Partha Sarthy, J)

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