

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1505 of 2024

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Sushila Devi wife of Late Jairam Singh, the residence of 04 Jairam Sushila Sadan, Kanya Pathshala Road, Gaya, P.S. Civil Lines District- Gaya Bihar 823001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Revenue and Land Reforms Department, Bihar, Patna.
2. The District Magistrate- cum-Collector, Gaya
3. The Municipal Commissioner, Municipal Corporation, Gaya.
4. The Deputy Municipal Commissioner, Municipal Corporation, Gaya.
5. The Sub-Divisional Officer, Gaya Sadar, Gaya.
6. Jitendra Kumar Charan Pahari, son of not known, resident of Muhalla - Kanya Pathsala Road, near Dharma Shabha, ward no. 22, P.S- Civil Line, District- Gaya, Bihar 823001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhishek Anand, Advocate
For the State	:	Mr. Atul Shankar, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 28-10-2024 The present writ petition has been filed seeking the following relief:-

“1(i) For issuance of a writ of certiorari for quashing the order dated 19.12.2023, passed by the Municipal Commissioner, Municipal Corporation, Gaya in Land Encroachment Case no.17 of 2023, by which, in purported exercise of the powers conferred under Section 6(2) of the Bihar Public Land Encroachment Act, 1956, the Municipal Commissioner, Municipal Corporation, Gaya, without giving the petitioner any opportunity of hearing has passed an order for removing encroachment



from the land alleged to have been encroached by the petitioner and in pursuance of the said order, the Sub-Divisional Officer, Sadar, Gaya (Respondent no. 5) has been given direction to make arrangement for removal of the encroachment, as has been alleged against the petitioner.

(ii) For issuance of a writ of certiorari for quashing the entire proceedings initiated by the Municipal Commissioner, Municipal Corporation, Gaya, vide Land Encroachment Case no. 17, since the entire proceeding has been conducted contrary to the provision contained in the Bihar Public Land Encroachment Act, 1956.

(iii) To restrain the respondents from taking any coercive steps against the petitioner during the pendency of the instant writ petition;”

2. At the outset, the learned counsel for the respondent-Gaya Municipal Corporation, Gaya submits by referring to paragraph no.8 of the counter affidavit filed in the present case that though the petitioner was asked on several occasions to submit documents with regard to the alleged encroachment made over the municipal drain, however he has failed to do so, nonetheless the authorities are open to consider the claim of the petitioner in case she approaches the Municipal Commissioner, Gaya Municipal Corporation, Gaya, by filing appropriate representation along with the document/proof with



regard to her right, title and interest over the drain, allegedly encroached by her.

3. Having regard to the facts and circumstances of the case, I deem it fit and proper to grant liberty to the petitioner to file appropriate representation, before the Municipal Commissioner, Municipal Corporation, Gaya, annexing all the documents in proof of her right, title and interest over the drain in question, which is stated to have been encroached by the petitioner, within a period of four weeks from today, which shall be considered by the Municipal Commissioner, Municipal Corporation, Gaya, in accordance with law, and disposed off, within a period of eight weeks, thereafter.

4. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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