

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3531 of 2020

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Vimla Devi Wife of Shankar Dubey Resident of Village- Bhowrajpur, P.S.-
Andar, District- Siwan

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Land Reforms Department, Government of Bihar, Patna.
3. The Commissioner, Saran Division, Bihar.
4. The District Magistrate, Siwan.
5. The Sub-Divisional Officer, Siwan.
6. The D.C.L.R. Siwan.
7. The Circle Officer, Andar, Siwan.
8. The Circle Inspector, Andar, Siwan.
9. Sri Gulam Haidar @ Haidar Ali, Son of Late Taukir Hussain @ Munna, Resident of Village- Bhowrajpur, P.S. and P.O.- Andar, District- Siwan

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Pandey, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, SC-19
		Mr. Birendra Prasad Singh, AC to SC-19

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 22-03-2024

Heard the parties.

2. The petitioner claiming to be a local resident of village Bhowrajpur, P.S. Andar, District-Siwan, has filed the present writ petition by way of a Public Interest Litigation, seeking a direction upon the respondent-authorities to restrain the respondent no.9 or any independent person to collect illegal



rent from public, doing business over plot no. 3354 appertaining to khata no. 894 in village Bhowrajpur, which is a *Gairmajarua Aam* Land and since time immemorial a public Haat/Bazar have been running there.

3. The only contention of the petitioner is confined to the fact that respondent no.9, being an antisocial muscle man having political clout, managed to get the land of Bhowrajpur Haat, recorded in his name in collusion with local authorities and started making illegal construction over the land in question and realizing rent on threat, in a most illegal manner.

4. On complaint made by the local residents, an inquiry had been conducted pursuant to the direction of the District Magistrate, Siwan and a proceeding for cancellation of *jamabandi*, had also been initiated way back in the year 2006, vide Jamabandi Cancellation Case No. 02 of 2006-2007 but, finally the matter has again been referred to the Circle Officer, Andar, without taking any action and the matter is still sub judice. It has further been argued that the matter has brought to the knowledge of the District Magistrate as well as Divisional Commissioner with a request to take necessary action in the matter, but no action has been taken. Thus, the present writ petition, in the interest of general public of the Bhowrajpur



village.

5. From the materials available on record, *prima facie*, it appears that the matter in relation to cancellation of *jamabandi* with respect to the land in question is sub judice before the competent authority and the interested parties are pursuing their remedies. Thus, in such circumstances, filing of the present writ petition by way of Public Interest Litigation, is nothing but a misuse of it.

6. It is settled law that a person who suffers from legal injury only can challenge the act/action/order etc. A writ petition under Article 226 of the Constitution of India is maintainable for enforcing the statutory or legal rights or when there is a complaint by the petitioner that there is a breach of the statutory duty on the part of the respondent(s).

7. The Court can enforce the performance of statutory duty by public bodies through its writ jurisdiction at the behest of a person, provided such person satisfies the Court that he has a legal right to insist on such performance. The Court in umpteen number of cases, has held that only a person who is aggrieved by an order or action of the authority can maintain a writ petition.

8. In the case of **The Chairman, Railway Board &**



Ors. v. Chandrima Das & Ors. [(2000)2 SCC 465], the Hon’ble Apex Court has held that the Court must examine the issue of *locus standi* from all angles and the petitioner should be asked to disclose as what is the legal injury suffered by him. The writ under the garb of “Public Interest Litigation” cannot be filed to abuse others even if in exceptional circumstances where personal interest of a litigant is involved. The Court may straightway refuse to consider the case, if the grievances raised therein requires an inquiry.

9. In the aforesaid facts and circumstances, this Court is left with no option but to dismiss the present writ petition with a caution to the petitioner not to indulge in misusing of the benevolent jurisdiction of this Court.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28-03-2024
Transmission Date	

