

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5793 of 2021

=====

Satyadeo Prasad Son of Late Laloo Mahto Resident of Mohalla - Kajipur
(Pipal Tal), P.S. - Kadamkuan, P.O. - Bankipore, District – Patna. ..Petitioner/s
Versus

1. The State of Bihar Through the Secretary, Department of Land Reforms and Revenue, Government of Bihar, Secretariat, Bihar, Patna
 2. The Secretary Department of Land Reforms and Revenue, Government of Bihar, Secretariat, Bihar, Patna
 3. The Collector, Patna
 4. The Circle Officer, Patna Sadar, Patna
 5. The Executive Engineer, Road Construction Department, Guljarbagh, Patna City, District- Patna
 6. Senior Superintendent of Police, Patna
 7. Station House Officer, Pypass Thana, Patna
 8. Anumandaliya Lok Shikayat Niwaran Padadhikari, Anumandaliya Lok Shikayat Niwaran Karyalaya, Patna City, District- Patna
 9. Surendra Yadav Son of Late Mishri Yadav Near Sentence School, Beside Jaishankar Yadav, Khejakalan, Pani Tanki, P.O. - Khajekalan, Patna City, District- Patna
 10. Raju Jaiswal Kauakhoh, in the lane of Nembu Halwai, Thana - Chowk, Patna City, District - Patna
 11. Anjani Kumar Sinha, Son of late Awadh Prasad, Resident of Village-Ishopur, P.S. Khusrupur, Distt- Patna, at present residing at Mohalla-Rajendra Nagar, Road No. 6A, P.S. Kadamkuan, Town and District- Patna.
- Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Ajay Prasad, Advocate
	:	Mr.Kaushal Kumar, Advocate
For the Respondent/s	:	Ms.Nutan Sahay, A.C. to AAG-12.
For the Intervenor		
Respondent No.11	:	Mr. Jitendra Kishore Verma, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
CAV JUDGMENT

Date :13-09-2024

Heard Mr. Ajay Prasad, learned counsel for the
petitioner, Mr.Jitendra Kishore Verma, learned counsel for the
intervenor respondent No.11 and learned counsel for the State.



2. The present writ application has been filed for the following reliefs:

(I) For issuance of a direction to the respondent authority for restraining the Respondent NO.7 (Station House Officer, Bypass Thana) and Respondent No. 9 (Surendra Yadav) & 10 (Raju Jaiswal), not to interfere and not making any objection with regard to construction of the house of the petitioner over the land of the petitioner which has been purchased on 15.10.1987 through registered Sale Deed No.1224.

(II) For issuance of a direction to the respondent authority to consider the representation/application filed by the petitioner and take necessary action with regard to protection of life and properties of the petitioner as guaranteed under Article 14, 16 and 351 & 300 of the Constitution of India.

(III) For issuance of a direction to the respondent no.6 (Senior Superintendent of Police) to depute a constable/constables during the course of construction of the house or police personnel with regard to not disturbing the peaceful life and property of the petitioner by the private respondents no.9 (Surendra Yadav) and 10 (Raju Jaiswal) or their associates.

(IV) For grant of any other relief or reliefs to which the petitioner may be found entitled to in the eye of law.



3. Learned counsel for the petitioner submits that the petitioner had purchased a piece of land measuring 21.50 decimal through a registered sale deed in the 1987 on a consideration amount of Rs.33,000/- and after execution of registered sale deed, the petitioner has applied for mutation and his name has been mutated in the year 2020 (Annexure-3). Learned counsel for the petitioner submits that the respondent No.7, who is officer Incharge of Bypass Thana, has intervened and orally restrained the petitioner not to reach the plot through Plot No.3700 and dispute has arisen and petitioner has filed an application before the respondent No.8 and final order passed by respondent No.8 whereas respondent No.8 has declared Plot No.3700 is Gair Majarua Aam land and the petitioner is constructed the house on his own purchased land. After the aforesaid order, the Plot No.3700 is a Gair Majarua Aam Land and each and every person has a right to use the aforesaid land for his passage. The petitioner has filed several representations before the respondent No.7, but the respondent No.7 has not taken any action in collusion with respondent Nos.9 and 10. In view of the aforesaid circumstances, the aforesaid land bearing Plot No.3700 is admittedly a Gair Majarua Aam Land and the petitioner has no other plot for passage except for reaching through the part of Plot No.3700 and the



respondent No.7 and private respondent Nos.9 and 10 have no jurisdiction to intervene or interfere in moving through this plot of land and which over his own purchased and registered land which he has purchased in the year 1987.

4. During pendency of the writ application, one I.A. No.01 of 2022 filed by one Anjani Kumar Sinha, under Article 226 of the Constitution of India read with principles of Order 1, Rule 10 (2) CPC, 1908 stating therein that the land in question (Plot No.3700) belong to him and members of his family and are not public lands and in support of his claim petitioner has submitted municipal survey khatian published on 02.01.1934. Hukumnama executed in the year 1942 by Bibi Salha Khatoon Wife of Late Hasimuddin Ahmad in favour of Sri Bhola Mahto Son of Late Janki Mahto. Order sheet of the Sairat Case No 21 of 1955 under the Provisions of Land Reforms Act and whereby and wherein the plot in question which is C.S Plot No. 3700 (Municipal Plot Nos. 1280, 1281 & 1448) has been exempted from being taken over under the L.R. Act and the tenant was declared as Occupancy Raryat. Deed of Relinquishment bearing No. 4636 dated 05.05.1975 executed by Sri Bhola Mahto son of Late Janki Mahto in favour of Sri Awadh Prasad son of Late Babu Devki Lal, who is the father of the respondent no.11 in respect of several plots which



included the plots in question. Order of the Collector, Patna dated 09.04.2009 passed in revision Case No. 09 of 1999-2000 whereby the Zamabandi in favour of the respondent no.11 over the property/land in question was upheld setting aside the order of D.C.L.R., Patna of cancellation of Zamabandi. It is stated that all the documents of title and possession was submitted by the respondent no.11 in the said revision case after which the case of the respondent no.11 of upholding the Jamabandi was accepted. So Jamabandi in the name of the respondent no.11 is admittedly running regarding the lands in question amongst other lands. Rent receipts were issued over the property by the erstwhile Zamindari right from the year 1942 and after vesting the Zamindari, rent receipts are being issued in favour of the raiyats by the government. Land Possession Certificate dated 09.02.2012 issued by Circle Officer, Patna Sadar, Patna in respect of several plots including Survey Plot No.3700 (land in question) out of which Municipal Survey Plot No.1280,1281, and 1448 were carved out.

5. After hearing the parties, the Court has been pleased to allow I.A.No.01 of 2022 vide order dated 15.11.2022.

6. Learned counsel for the intervenor respondent No.11 further submits that earlier the State Government wanted to use the land of Plot No.3700 belonging to the family of the respondent



no.11 unauthorizedly without paying compensation then the respondent no.11 filed CWJC No.17485 of 2011 wherein direction was given to acquire the land and to pay the compensation to the respondent no.11, however, when the said direction was not carried out by the respondents then MJC No.173 of 2013 (contempt petition) was filed by the respondent no.11 and in the said contempt petitioner, the respondents have filed an affidavit stating therein that the State has required only 69 decimals of land for construction of road and not the entire 3.80 acres of land as directed under the order of Writ Court and based upon such affidavit filed on behalf of the respondents the respondent no.11 was paid compensation for only 69 decimal of land. In respect of the aforesaid situation 69 decimals of land out of 3.80 acres of land registered sale deed was got executed by the State Govt. from the respondent no.11 in favour of his Excellency the Governor of Bihar for a consideration and payment amounting Rs.10,23,96,000/- (Rs. Ten Crores Twenty Three Lacs Ninty Six Thousands Only) and in the sale deed, the title and possession of the respondent no.11 has been admitted meaning thereby the State respondent has admitted the title of the respondent no.11 over 69 decimals of land which is an internal part of the compact plot of 3.80 acres of land of Plot No.3700 (now M.S.Plot Nos.1280, 1281



and 1448) which are the land in question in the present writ application. It appears from the aforesaid, the land in question belonged to the father of respondent no.11 and from whom the property has devolved on the respondent no.11 and his brothers and they are coming in peaceful possession of the property from the beginning which is admitted by the various documents of the State/District Administration itself.

7. Learned counsel for the intervenor respondent No.11 submits that it appears from the pleading that the petitioner intentionally suppressed the material facts the land of Plot No.3700 has been treated as Raiyati Land as per record of State of Bihar since the time of vesting and its not Gair Majarua Aam Land and the Jamabandi is running earlier in the name of Bhola Mahto recognizing Hukumnama and subsequently in favour of father of the present intervenor respondent No.11 Sri Awadhesh Prasad and now in the name of the intervenor respondent No.11 and his brother and after coming to know about this litigation has filed an intervention application on 27.04.2022 in the present writ application for his impleading in the present proceeding as the lands in question belong to him and members of his family and are not public lands and the intervention application bearing I.A.No.01 of 2022 was allowed vide order dated 05.11.2022 after hearing the



parties and original land owner was added as respondent No.11. Apart from the aforesaid facts, one subsequent development took place inasmuch as the writ petitioner wherein subsequently filed another writ application bearing CWJC No.14135 of 2021 after filing of the present writ application wherein the relief was sought for cancellation of Jamabandi running in favour of intervenor respondent No.11 and his family members on different lands including lands of entire Plot No.3700 and thus the writ petitioner by way of subsequent events has categorically admitted that the State record lands of Plot No.3700 is presently raiyati land and Jamabandi is running with respect thereto in favour of intervenor respondent No.11 and his family members as per State records. The material subsequent event which is a clear admission of the fact that in the record of State of Bihar the lands of Plot No.3700 are treated as raiyati lands and not holding lands and the State is realising rent and the present writ petition is rendered as without having any cause of action and prematured because even as per admission of petitioner the Jamabandi is running in the name of the intervenor respondent No.11 and his family members and their agents/managers and so long as the jamabandi is running no direction can be given to the State officials to stop the recorded private raiyati and their Agents Manager from using the lands of



Plot No.3700 and ensuring that the petitioner and his goods of construction materials are permitted to pass through land of Plot No.3700. Learned counsel for the intervenor respondent No.11 in support of his claim annexed the documents as Annexure-1 series to the intervention application made its crystal clear that the property in question alongwith other properties belong to the respondent no.11 and family members and the lands of Plot No.3700 were always treated as raiyati land and not public land or Gair Majarua Aam Land.

8. A counter affidavit has been filed on behalf of the respondent-State submits that the Jamabandi No.6251 has been created jointly with regard to Plot No.3700 and 3551 (total are 16.94 ares) in the name of Sri Anjani Kumar @ Lai Babu, Son of Late Babu Awadh Prasad (respondent No.11).

9. Having heard learned counsel for the parties and it appears from the material available on the record that the land in question (Plot No.3700) were always treated as raiyati land not public or Gair Majarua Aam Land. Apart from that, the petitioner has admitted in paragraph-18 of the writ petition “petitioner has no other plot/passage except for reaching through the part of Plot No.3700 and respondent authority (respondent No.7)or private respondent Nos.9 and 10 have no jurisdiction or authority to



intervene or interfere in moving through this plot of land and reach over his own purchased land registered in the year 1987. It appears from the aforesaid that the ground of the petitioner is not regarding interference of the land failing which the CSP Plot No.3706 rather the grievance of the petitioner is that the petitioner has no other access to road except by passing through CSP No.3700 which he claimed to be Gair Majarua Aam Land and thus *“it contended that the land owners or private respondent Nos.9 and 10 are creating obstruction in the physical movement as well as construction material movement to lands of the petitioner situated in CSP No.3706 through the lands of Plot No.3700”*.

10. In view of the aforesaid, it is crystal clear that the present writ petition has been filed by the petitioner with ulterior motive, apart from that, petitioner was fully aware that the land in question belonged to respondent no. 11and without made him party, he has filed the present writ petition.

11. No case is made out for interference of this Court, no merit in the writ petition.

12. Dismissed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	29.07.2024
Uploading Date	13.09.2024
Transmission Date	N.A.

