

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7336 of 2023

Umesh Yadav, Son of Late Parmeshwar Prasad Yadav, Resident of Village-
Pirakh Saray, P.O.-Maksudpur, Police Station-Khizersarai in the District of
Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Magadh Division, Gaya.
4. The District Magistrate-Cum-Collector, Gaya.
5. The Sub-Divisional Magistrate, Gaya Sadar, Gaya.
6. The Circle Officer, Wazirganj in the District of Gaya.
7. The Karjara Gram Panchayat Under Wazirganj Block in the District of Gaya through its Secretary.
8. The Mukhiya, Karjara Gram Panchayat Under Wazirganj Block in the District of Gaya.
9. The Executive Engineer, Rural Works Department, Wazirganj in the District of Gaya.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Sunil Kumar, Advocate
For the State	:	Mr. Rishi Raj Sinha, SC-19
		Mr. Saurabh Kumar, AC to SC-19

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 16-01-2024

1. Heard learned counsels for the parties.

2. This writ application has been filed to remove the encroachment from the residential land of the petitioner appertaining to Khata No. 45(old)/11(new), Plot No. 254 situated at Mauza- Kewala, Gram Panchayat- Karjara, Block- Wazirganj, District- Gaya, where a road has been constructed



illegally with the help of the Executive Engineer, Rural Works Department, Wazirganj, Gaya.

3. It is the submission of learned counsel appearing on behalf of the petitioner that the land in question is the purchased land of the petitioner, which was purchased on 04.12.1985 through registered sale deed. He is in peaceful possession of the land in question and paying rent to the State. It is further submitted that without proper acquisition or consent of the petitioner, the raiyati land of the petitioner has been encroached by the respondent-Authorities and road has been constructed over the land.

4. In this case a counter-affidavit has been filed on behalf of Respondent Nos. 4 to 6. In paragraph no. 4 of the said counter-affidavit it is stated that over 30 decimals land of the petitioner in question, PCC road was constructed over 2 decimals of land with prior oral consent of the petitioner but now the petitioner has turned greedy and thereby filed the present writ application.

5. Having heard the rival submissions and perusing the materials available on record, this court is of the view that there is no material to suggest that any objection was raised by the petitioner at the time of construction of the road in question.



On one hand learned counsel appearing on behalf of the petitioner has submitted that the road was constructed without the consent of the petitioner whereas in the counter-affidavit filed on behalf of the respondent-State it is stated that the road was constructed after obtaining oral consent of the petitioner.

6. Having regard to the nature of controversy raised in the present writ application, the same cannot be adjudicated by this court in writ jurisdiction. These are matters which can only be decided in appropriate civil proceedings after detailed examination of evidences and facts.

7. In view of the aforesaid observations, this writ application is disposed of with liberty to the petitioner to avail remedy before the competent authority, as may be available, in accordance with law.

(Prabhat Kumar Singh, J)

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