

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8148 of 2024**

=====

Upendra Paswan Son of Ramji Paswan Resident of Ward No. 11,  
Mohiuddinpur, P.S.- Rosara, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Govt. of Bihar, Patna.
2. The Secretary, Rural Development Department, Govt. of Bihar, Patna.
3. The Commissioner, Tirhut Division, Muzaffapur.
4. The District Magistrate, Samastipur.
5. The Circle Officer, Rosara, District-Samastipur.
6. Mohammad Samad, Son of Md. Allamuddin, Resident of Ward No. 13, P.S. Rosara, District- Samastipur, Bihar.
7. Mohammad Shahanwaj, son of Md. Mokim Resident of Ward No. 11, P.S. Rosara, District- Samastipur, Bihar.
8. Mohammad Mahbub, Son of Maniruddin, Resident of Ward No. 13, P.S. Rosara, District- Samastipur, Bihar.
9. Mohammad Khusnuz, Son of Md. Syed, Resident of Ward No. 12, P.S. Rosara, District- Samastipur, Bihar.
10. Mohammad Akhtar, Son of Md. Jamir, Resident of Ward No. 12, P.S. Rosara, District- Samastipur, Bihar.

... .. Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Vinod Kumar, Advocate  
For the Respondent/s : Mr. P. K. Shahi, AG

=====

**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)**

**Date : 17-05-2024**

Heard the parties.

2. The petitioner has invoked the jurisdiction of this  
  
Court under Article 226 of the Constitution of India seeking a



writ in the nature of mandamus commanding the respondent authorities to remove the encroachments including the encroachment over the well measuring an area of 3 decimal located in Ward No. 11, Mohiuddin village in Nayanagar Panchayat.

3. It is contended that the aforesaid encroachment has been effected by the private respondent nos. 6 to 10. Direction has also been sought for making the respondent authorities to provide drinking water to the residents of Mohiuddin village and to implement the Government scheme of *Jal Jivan Hariyali*.

4. The Learned Advocate for the writ petitioner referring to the averments made in the writ petition contended that the record of the Revenue and Land Reforms, Government of Bihar clearly shows that the land in question located at Mauza 998 Mohiuddin, Khata No. 587, Khesra No. 1868, Anchal-Hasanpura, District Samastipur, appertaining to 3 decimal is a Government land. There is a public well located therein which has been forcibly encroached by the private respondents.

5. On account of the encroachment, there is religious disharmony between the two communities. A Committee



consisting of Sub-Divisional Officer, Rosera, Circle Officer, Hasanpura, local Mukhiya and other public representatives have also tried to resolve the dispute to refrain the encroachers from making any encroachment over the land, however, the private respondents are bent upon encroaching the land, in question, including the well.

6. Having heard the submissions advanced on behalf of the learned Advocate for the petitioner and the materials available on record, *prima facie*, the grievance of the petitioner is with regard to encroachment of public land and well and, as such, the petitioner has effective, efficacious alternative remedy under the Bihar Public Land Encroachment Act, 1956.

7. It is worthy to note that where the encroachment on public land is of such a nature and the Collector considers its immediate removal essential for the safety of general public or for the safety of any other structure on the public land, the right and remedy is available under the Code of Criminal Procedure 1908; as also under Bihar Public Land Encroachment Act, 1956.

8. Exercising the equitable jurisdiction, this Court does not find the present writ petition, under the guise of public interest litigation, to be maintainable; accordingly, the same



stands dismissed, reserving the liberty to approach before the competent authority or the Court of competent jurisdiction, as the case may be.

**(K. Vinod Chandran, CJ)**

**(Harish Kumar, J)**

shivank/-

|                   |             |
|-------------------|-------------|
| AFR/NAFR          | NAFR        |
| CAV DATE          | NA          |
| Uploading Date    | 19.06.2024. |
| Transmission Date | NA          |

