

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11324 of 2019

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Dharmendra Kumar Singh @ Bablu Singh Son of Late Maheshwar Singh R/o
Village-Borna, P.S. Gogri, District-Khagaria, presently residing at Jamalpur
Gogri Ward No. 12, P.S.-Gogri, District-Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The District Magistrate-cum-Collector Khagaria
3. The Additional Collector Khagaria
4. The Deputy Development Commissioner-cum-Chief Executive Officer
District Board, Khagaria
5. The Sub-Divisional Magistrate Gogri, Khagaria
6. The Circle Officer Gogri, Khagaria
7. The Executive Officer Nagar Panchayat, Gogri, Khagaria

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prashant Sinha
For the Respondent/s : Mr.Rishi Raj Sinha (Sc19)

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 09-01-2024 Heard the parties.

2. By way of this writ petition, the petitioner has
prayed for the following relief which are quoted as under:-

(i) For issuance of writ in the nature of certiorari for
quashing of the notice dated 26-03-2019 issued by the Circle
Officer, Gogri, Khagaria (The Petitioner has come to know that
the Circle Officer has given the Land Encroachment Case No.
04/18-19 in the said case but the same is not mentioned in the
notice, the notice only mentions Encroachment Case No. /18-
19) directing the Petitioner to remove encroachment from land



measuring 04 kathas of land in Thana No. 309/01, Khata No. 06, Plot No. 51 situated in Mauza Jamalpur.

(ii) For holding that the title and possession of the family of the Petitioner over the land in question has been declared by a competent Civil Court vide its judgement dated 25- 07-1992 passed in Title Suit No. 14/87 and the official respondents have been permanently enjoined to interfere with the possession or Jamabandi of the family of the Petitioner over the land in question, hence, the respondent authorities have got no authority or jurisdiction to initiated any proceeding under the Bihar Public Land Encroachment Act.

(iii) For holding that since the title and possession over the land in question has been declared in favour of the family of the Petitioner by a competent Civil Court, a proceeding under the Bihar Public Land Encroachment Act is not maintainable at all and by initiating such proceeding, the Circle Officer is violating the order of permanent injunction issued by the competent Civil Court.

(iv) For restraining the Executive Officer, Nagar Panchayat, Gogri from disturbing the possession of the Petitioner over the land in question inasmuch as the Executive Officer, Nagar Panchayat, Gogri is visiting time and again over



the land of the Petitioner for vacating the land to be used for dumping yard of garbage.

(v) For any other direction, which your Lordships may deem fit and proper in the facts and circumstances of the case.

3. It has been submitted by the learned counsel for the petitioner that the petitioner got his Title Suit No. 14 of 1987 decided in his favour by order dated 25.07.1992 passed by Munsif, Khagaria but State has issued notice against the petitioner under the Bihar Public Land Encroachment Act, 1956 again on the subject matter of title again.

4. Considering the above submission of the learned counsel for the petitioner, this Court is of the opinion that the State cannot proceed with regard to the same property in which there is a decree of the Civil Court in favour of the petitioner.

5. In view of the above, this application is allowed.

6. Accordingly, the notice dated 26-03-2019 issued by the Circle Officer, Gogri, Khagaria to the petitioner is hereby quashed.

7. The learned counsel for the State submits that the decree of the title suit is with regard to 4 katthas of land but the dispute is of 10 katthas of land.



8. The State is given liberty to proceed in the matter in accordance with law over the plot of land on which there is no decree by way of title suit. Any notice by the State shall be given to the petitioner in the proper form and thereafter the State may proceed in the matter after hearing the petitioner in accordance with law.

(Sandeep Kumar, J)

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