

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13563 of 2018

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1. Baliram Yadav S/o Judagir Yadav, Resident of Village- Bijhra, P.O. Manjhiyawan, P.S. Konch, District- Gaya, Bihar.
 2. Sunil Kumar, S/o Naresh Yadav, Resident of Village- Bijhra, P.O. Manjhiyawan, P.S. Konch, District- Gaya, Bihar.
 3. Ramanand Yadav, S/o Radhay Saran Yadav, Resident of Village- Bijhra, P.O. Manjhiyawan, P.S. Konch, District- Gaya, Bihar.
 4. Ramashish Das, S/o Ram Das, Resident of Village- Bijhra, P.O. Manjhiyawan, P.S. Konch, District- Gaya, Bihar.
 5. Bakhori Yadav, S/o Judagir Yadav, Resident of Village- Bijhra, P.O. Manjhiyawan, P.S. Konch, District- Gaya, Bihar.
 6. Ganauri Yadav, S/o Sohar Yadav, Resident of Village- Bijhra, P.O. Manjhiyawan, P.S. Konch, District- Gaya, Bihar.
 7. Moti Das, S/o Shivshankar Das, Resident of Village- Bijhra, P.O. Manjhiyawan, P.S. Konch, District- Gaya, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Gaya.
3. The Circle Officer, Konch Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ram Babu, Advocate
For the Respondent/s	:	Mr.Rishi Raj Sinha -Sc19
		Mr.Atul Shankar, AC to SC-19

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 31-08-2024

1. The present writ petition has been filed seeking the following relief(s):-

“1(i) For issuance of a writ in the nature of a writ of certiorari quashing the notices issued on 17.04.2018 by the Circle Officer, Konch, Gaya to the petitioners alleging encroachment on public land in an unauthorized manner and further direction to these petitioners to appear



before him along with documents in support of their rights and entitlements over the alleged lands under the encroachment mentioned in the respective notices.

(ii) For issuance of a writ in the nature of a writ mandamus to the respondent authorities especially the respondent no.-3 not to interfere with the rights and entitlements of these petitioners over their respective raiyati and homestead lands as they are in possession for more than 40-50 years (ranging through several generations) and these petitioners are not encroachers rather are bonafide raiyats having khatiyans in the name of their ancestors and their names are already existing in the records of rights in the concerned Konch Anchal Gaya and are also continuously paying land revenue to the Govt. of Bihar.

(iii) For holding that the notices in question are not sustainable on their very face as the same are not in form-I as per prescribed format under the Bihar Public Land Encroachment Act, 1956 and non-adherence of the same makes the notices unsustainable in view of statutory provisions.

(iv) For holding that as per the well settled legal position when adverse possession has come into motion and in cases of disputed facts of rights and entitlements only the competent civil court has the jurisdiction to decide the



claims and counter claims of the parties and as such the legal remedy, if any, of the state lies by way of filing suit in the competent court and not to scrutinize the documents of these petitioners and pass adverse orders particularly when the names of these petitioners are already existing in the records of rights of the Anchal Konch Gaya.”

2. At the outset, the learned counsel for the petitioners seeks liberty on behalf of the petitioner to file their objections, before the Circle Officer, Konch, District-Gaya to the notice, issued upon them, with regard to the land in question. Liberty so sought is granted.

3. The present writ petition stands disposed off.

(Mohit Kumar Shah, J)

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