

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10631 of 2022

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Niranjan Mishra son of Late Baidyanath Mishra resident of village - Barhara,
P.O. Rampatti, P.S. - Rajnagar, District - Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar Patna.
2. Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. Director Panchayati Raj Department, Government of Bihar, Patna.
4. District Collector, District - Madhubani.
5. Gram Kutchery, Rampatti District - Madhubani through its Sarpanch.
6. Sarpanch Gram Kutchery, Rampatti, District - Madhubani.
7. Shrimant Mishra son of late Jagarnath Mishra resident of village Barhara, P.O. Rampatti, P.S. Rajnagar District Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binodanand Mishra, Advocate Ms. Sakshi Snehi, Advocate Mr. Gunjan Kumar Jha, Advocate
For the State	:	Mr. Kumar Alok (SC-7)
For Respondent No.6	:	Mr. Krityanand Jha, Advocate
For Respondent No.7	:	Mr. Avinash, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 01-02-2024 Heard Mr. Binodanand Mishra, learned counsel

 appearing on behalf of the petitioner; Mr. Kumar Alok, learned

 SC-7 appearing on behalf of the State; Mr. Krityanand Jha,

 learned counsel appearing on behalf of respondent no. 6 and Mr.

 Avinash, learned counsel for the respondent no. 7.

2. Petitioner has filed the present writ petition for
following relief(s):

*“(i) For issuance of an order, direction or writ
including writ in the nature of Certiorari quashing the order
dated 8/3/2022 passed by Gram Kutchery Rampatti case no. 01*



of 2021 whereby on the application of the Respondent No 7 Srimant Mishra the Gram Kutchery decided that the Respondent No 7 will remain in possession of the land of the Petitioner till the Petitioner does not remove the building from the land of the Respondent No. 7. The petitioner has also been imposed cost of rupees 8500 by way of compensation for demolishing the pillar and the DPC.

(ii) For issuance of an order, direction or writ including writ in the nature of Mandamus commanding the Respondents not to give effect to the order dated 8/3/2022 passed by Gram Kutchery Rampatti in case no. 01 of 2021.

(iii) For issuance of an appropriate declaration holding that order under challenge passed by the Gram Kutchery, Ram Patti is totally without jurisdiction in view of the provisions of section 110 and 111 of the Bihar Panchayat Raj Act 2006.

(iv) For issuance of an appropriate declaration holding that no suit shall lie in any bench of the Gram Katchahry for determining the right, title and interest in immovable property

(v) For issuance of and appropriate declaration holding that a bench of the Gram Katchahry shall have jurisdiction to hear and determine when the value of the suit does not exceed ten thousand rupees relating to movable properties.

(vi) For issuance of an appropriate declaration holding that in the present case from the own showing of the Respondent No 7 the issue involves determination of right, title and interest of immovable property same cannot be tried and adjudicated by the Gram Kutchery.

(vii) For issuance of an appropriate declaration holding that the application of the Respondent No 7 was not maintainable before the Gram Kutchery.

(viii) For issuance of an appropriate declaration holding that the Respondent NO 7 has no right title or interest over the property of the Petitioner in question.

(iv) For any other relief(s) to which the petitioner may be found entitled in the facts and circumstances of the present case.”

3. Learned counsel appearing on behalf of the petitioner has sought interference of this Court for quashing the order dated 08.03.2022 passed by the Gram Kutchery, which in exercise of power under Section 110 of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the ‘Act’) on two grounds:

4. Firstly on the ground of non-maintainability of the claim of the respondent no. 7 and secondly, on the merits that



from the perusal of complain, the claim is not covered by the provision of Section 110 of the Act, 2006.

5. Learned counsel submits that order passed by the Gram Kutchery directing the petitioner to make payment of Rs. 8,500/- on account of damage of pillars erected by the respondent no. 7 in absence of the petitioner, any report relating to spot verification is not justified. He further submits that the claim of the respondent no. 7 was for Rs. 25,000/- and such claim is beyond the jurisdiction of the Gram Kutchery in accordance with the provision of Section 110 of the Act. Learned counsel has denied the statement made by the respondent no. 6 in paragraph no. 11 to the counter affidavit to the effect that petitioner has never preferred any appeal before the full Bench of Gram Kutchery. He submits that the petitioner has preferred Appeal before full Bench of the Gram Kutchery against the damage ascertained for Rs. 8,500/- for the alleged damage of the pillars, which has been annexed to the present writ petition as 'Annexure-4', but the *Sarpanch* has shown his favoritism towards respondent no. 7 by not entertaining the appeal of the petitioner.

6. Learned counsel appearing on behalf of the respondent no. 7 submits that the application may not be well



worded but the claim of respondent no. 7 relates to the damage caused to the pillars, which were erected by him and there is no infirmity in the order passed by the Gram Kutchery.

7. Learned counsel appearing on behalf of the respondent no. 6 submits that a counter affidavit has been filed on behalf of the Sarpanch Gram Kutchery, Rampatti, District – Madhubani informing that on verification of the records maintained at Gram Kutchery, it has been found that no appeal has been preferred by the petitioner till date. However, he submits that he will inform the Sarpanch, Gram Kutchery, Rampatti, District – Madhubani today to register the Appeal on the basis of memo of appeal, which has been annexed to the present writ petition as ‘Annexure-4’.

8. Having considered the rival submission made on behalf of the parties, the petitioner has claimed that he has remedy under Section 112 of the Act, 2006, to file appeal before the full Bench of the Gram Kutchery, which is required to be heard in prescribed manner. The memo of appeal is annexed as ‘Annexure-4’ to the writ petition. The full Bench of the Gram Kutchery is directed to pass necessary order in accordance with law expeditiously considering the fact that petitioner has been forced to file the writ petition on account of inaction of the



Sarpanch of the Gram Kutchery.

9. The full Bench of the Gram Kutchery must maintain sanctity and must not get influenced by either of the parties.

10. With aforesaid directions, the present writ petition is disposed of.

(Purnendu Singh, J)

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