

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9770 of 2023

=====

Anil Kumar Tiwary S/o Late Nawal Kishor Tiwary R/o Vill-Manikpur Sehan
@ Sahori, Panchayat-Madhonpur Ram, Circle-Bhagwanpur, PS-Sarai, Distt-
District-Vaishali, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Old Secretariat, Bailey Road, Patna-800015.
2. Rural Development Department, Government of Bihar through its Secretary, Patna, Bihar
3. The District Magistrate, Collectorate Building, Hajipur, Vaishali.
4. District Panchayati Raj Padadhikari, Vaishali, Collectorate Building, Hajipur, Vaishali.
5. Block Development Officer, Bhagwanpur Block, Vaishali, Bihar.
6. Circle Officer, Block Office, Bhagwanpur, Vaishali District- Bihar.
7. Panchayati Raj Padadhikari, Block-Bhagwanpur, Vaishali District- Bihar.
8. Panchayat Sachiv, Panchayat Madhonpur Ram, Block-Bhagwanpur, Vaishali District- Bihar.
9. Mukhiya, Panchayat Madhonpur Ram, Block-Bhagwanpur, Vaishali District- Bihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Ms. Rana Neha Kumari, Advocate Mr. Abhishek Kumar, Advocate Mr. Vimal Kumar, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan, (SC-25) Mr. Arif Daula Siddiqui, AC to SC-25

=====

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 07-05-2024 Heard Ms. Rana Neha Kumari, learned counsel for the

petitioner and Mr. Arif Daula Siddiqui, AC to SC-25.

2. The present writ petition has been preferred for the

grant of following relief/s:-

“i. For issuance of an order, direction



or writ including writ in the nature of mandamus commanding the respondents to restrain from carrying out any construction/Nala on the raiyati land of the petitioner on Khata No. 37, Khesra No. 879 of Vill- Manikpur, Circle-Bhagwanpur Halka-Madhapur Ram, Distt-Vaishali.

ii. For the issuance of appropriate direction that the construction/Nala dug out/constructed on the petitioner's land be demolished/removed from the petitioner's land and his land be restored in its earlier position.

iii. For grant of any other reliefs deemed fit by this Hon'ble Court in the facts and circumstances of this case."

3. Learned counsel for the petitioner submits that without getting the land measured and/or taking note of the representation, the respondent No. 9, 'Mukhiya' of Madhopur Ram Panchayat under Bhagwanpur Block in the District of Vaishali started illegal construction of drainage (nala) on his raiyati land.



4. A counter-affidavit has been filed on behalf of the Circle Officer, Bhagwanpur, Vaishali and paragraph-5 reads as follows:-

“5. That the answering respondents would like it pertinent to submit that the construction of Nala and its safety is essential in order to maintain and sustain the natural course of water. It cannot be removed even if it would have been constructed on the land of the petitioner in view of the provision laid down U/s 147 of Cr.P.C.”

5. Learned State counsel has also taken this Court to paragraph-13 which reads as follows:-

“13. That thus the land was measured again on 19.05.2023 by the Anchal Amin and it was found that the Nala had been constructed along the rural road on the land of the government bearing Kheshra No. – 867 measuring an area 1 acre and 30 Dec. adjacent to the boundary of Kheshra No. – 879 owned by the petitioner (Annexure-A).”



6. Learned counsel for the petitioner, Ms. Kumari submits that the petitioner will be content if fresh measurement of the land is done by the respondents to see whether the construction has been made on the Government land and/or on the raiyati land of the petitioner.

7. For the said measurement he shall be paying the appropriate fee.

8. Learned State counsel has no objection to it.

9. A counter-affidavit has been signed by Circle Officer, Bhagwapur and it has been filed on behalf of the respondent Nos. 3 to 7.

10. In that background, the writ petition stands disposed of with liberty to the petitioner to approach the District Panchayati Raj Officer, Vaishali, Hajipur within four weeks from today and he shall ensure the fresh measurement of the land through the respondent no. 6, the Circle Officer, Bhagwanpur on the requisite fee being paid by the petitioner. It has to be measured in his presence as also in the presence of all the other relevant respondents and a copy be handed over to the petitioner. The presence as also the signature on the map so prepared should also be taken from the petitioner for his satisfaction.

11. In case, it is found that without his consent and/or



acquisition, any drainage (*nala*) has been constructed on his raiyati land, the respondents are duty bound to either take consent or pay the compensation for the said construction.

12. The writ petition stands disposed of with aforesaid observation.

(Rajiv Roy, J)

Adnan/-

U			
---	--	--	--

