

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1533 of 2022

In
Civil Writ Jurisdiction Case No.7808 of 2021

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Dinesh Yadav @ Dinesh Kishor Yadav, S/o Suraj Prasad Yadav, Resident of Village- Dariyapur, P.O.- Fatehpur Nepa, Police Station- Tekari, District- Gaya.

... .. Petitioner.

Versus

1. The State of Bihar.
2. Sri Brijesh Mehrotra, Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. Dr. Thiagarajan S.M., District Magistrate, Gaya.
4. Smt. Karishma Kumari, Sub-Divisional Officer, Tekari Gaya.
5. Sri Anand Prakash Ram, Circle Officer, Tekari, Gaya.
6. Kuldeep Yadav S/o Late Devlal Yadav Resident of Village- Dariyapur, P.O.- Fatehpur Nepa, Police Station- Tekari, District- Gaya.
7. Chandradeep Yadav S/o Late Devlal Yadav Resident of Village- Dariyapur, P.O.- Fatehpur Nepa, Police Station- Tekari, District- Gaya.
8. Mahesh Yadav S/o Late Moti Yadav Resident of Village- Dariyapur, P.O.- Fatehpur Nepa, Police Station- Tekari, District- Gaya.
9. Jeetan Yadav S/o Late Moti Yadav Resident of Village- Dariyapur, P.O.- Fatehpur Nepa, Police Station- Tekari, District- Gaya.

... .. Opposite Parties.

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Appearance :

For the Petitioner : Mr. Shailesh Kumar, Advocate.
For the State : Mr. Md. Khurshid Alam (AAG- 12).

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 04-03-2024

Pursuant to order dated 17.02.2024, the Circle Officer Mr. Kundan Kumar is present in the Court. He was the Circle Officer, Tekari, Gaya, during the intervening period from 26.02.2023 to 21.07.2023 and for the second spell, he was



working as such on 31.07.2023 to 27.12.2023. It was submitted by him that his predecessor had initiated encroachment proceedings on 21.10.2022 insofar as Plot No.3120 and 3130. On 21.04.2023, during his period, encroachment in Plot No.3120 has been removed. Insofar as Plot No.3130 is concerned, it was dropped on 04.11.2022 in the light of Khatiyan. Khatiyan entries reveals Jhopariya.

2. There are certain disputed issues insofar as Plot No.3130. The occupier has not produced any material to show as to how Plot No.3130 stands in his name in the Khatiyan. In other words, certain basic documents were required to be apprised before entering his name in Khatiyan as against Plot No.3130. The State-respondents cannot merely rely on Khatiyan documents. They must verify the foundation documents to the extent whether Plot No.3130 was allotted by the State Government under any policy or occupier had purchased from third party so as to come to the conclusion that he was legally holding the Plot No.3130. Merely, the encroachment proceedings cannot be dropped in the light of Khatiyan documents.

3. Recently, the Hon'ble Supreme Court in the case of **Hydha Muslim Welfare Masjid-E Hidayah and**



Madarasa Versus N. Dinakaran and Others vide order dated 26.02.2024 in Petition(s) for Special Leave to Appeal (C) No(s). 4375/2024 has taken note of what are the requisite materials so as to analyze was there any illegally occupying a particular land. The criteria are as under:

- “i. The petitioner is admittedly not the owner of the subject property;
- ii. The subject land, vests in Chennai Metropolitan Development Authority (for short ‘CMDA’), free from all encumbrances;
- iii. The petitioner is an unauthorized occupant.
- iv. The petitioner never applied to sanction building plans;
- v. The construction was raised in a totally illegal manner;
- vi. The illegal construction, remained unabated despite notices being served by the CMDA Authorities on 09th December, 2020.”

4. The concerned authority is hereby directed to take note of the aforementioned principles laid down by the Hon’ble Supreme Court insofar as whether occupier of Plot No.3130 fulfills the aforementioned criteria or not? In this regard, the competent authority is hereby directed to issue a



detailed show cause notice to the occupier of Plot No.3130. On receipt of his explanation, thereafter, proceed to either evict him or confirm that he is legally occupying the Plot No.3130. In this regard, the concerned authority is hereby directed to complete the above exercise within a period of six months from the date of receipt of this order.

5. With the above observation, the present M.J.C./Contempt Petition stands dropped reserving liberty to the petitioner to assail the action to be taken by the official respondent, if it is disadvantage.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.03.2024.
Transmission Date	NA

