

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11161 of 2023

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Ramadhar Yadav Son of Late Jagdev Yadav @ Jagdeo Yadav Resident of
Village- Patar, Post- Taraiya, Gram Panchyat Raj- Taraiya, P.S.- Sahar Ghat,
Block- Madhwapur, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Madhubani.
2. The District Magistrate, Madhubani, District- Madhubani.
3. The Superintendent of Police, Madhubani, District- Madhubani.
4. The Sub- Divisional Magistrate, Sub-Division- Benipatti, District- Madhubani.
5. The Circle Officer, Circle and Block- Madhwapur, District- Madhubani.
6. The Block Development Officer, Block- Madhwapur, District- Madhubani.
7. The Station Head Officer (S.H.O.), P.S.- Sahar Ghat, District- Madhubani.
8. Mr. Vinod Yadav, Son of Kamal Yadav Resident of Village- Patar, Post-Taraiya, Gram Panchyat Raj- Taraiya, P.S.- Sahar Ghat, Block and Circle- Madhwapur, District- Madhubani, The then Mukhiya, Gram Panchyat Raj- Taraiya, P.S.- Sahar Ghat, Block- Madhwapur, District- Madhubani.
9. Mr. Arun Yadav, Son of Ramyad Yadav Resident of Village- Patar, Post-Taraiya, Gram Panchyat Raj- Taraiya, P.S.- Sahar Ghat, Block and Circle- Madhwapur, District- Madhubani.
10. Mrs. Nilam Devi, Wife of Arun Yadav Resident of Village- Patar, Post-Taraiya, Gram Panchyat Raj- Taraiya, P.S.- Sahar Ghat, Block and Circle- Madhwapur, District- Madhubani, The then Ward Member, Ward No. 10, Village- Patar, Post- Taraiya, Gram Panchyat Raj- Taraiya, P.S.- Sahar Ghat, Block and Circle Madhwapur, District- Madhubani.
11. Mr. Anand Chandra Jha, Son of Late Kulanand Jha Resident of Village- Abari, P.S.- Sahar Ghat, Block and Circle- Madhwapur, District- Madhubani.
12. Mrs. Poonam Devi, Wife of Anand Chandra Jha Resident of Village- Abari, P.S.- Sahar Ghat, Block and Circle- Madhwapur, District- Madhubani, The then Member Panchayat Samiti, Gram Panchyat Raj- Taraiya, P.S.- Sahar Ghat, Block and Circle- Madhwapur, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Alok Abhinav, Advocate
For the State	:	Md. Khurshid Alam, AAG-12
		Ms. Nutan Sahay, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER



2 03-01-2024

1. Heard learned counsels for the parties.

2. This writ application has been filed for the following reliefs:-

- “a) For issuance of a writ in the nature of mandamus directing/commanding the concerned to remove the encroachment and to make free from all hindrance from purchased land/own land of the petitioner bearing Khata No.78 (old) and 151 (new), Plot No.509 & 510 (old) and 1126 (new), Measuring Area- 01 Kattha 05 Dhur/05.42 Dec., Thana No. 100, Mauza- Patar, P.S.- Sahar, Circle- Madhawapur, Sub-Division- Benipatti, District- Madhubani purchased through Sale-Deed No.6031 dated 21.10.2005 and Khata No.78 (old) and 151 (new), Plot No.589 (old) and 1152 (new), Measuring Area- 07 Dhur/01.526 Dec., Thana No. 100, Mauza- Patar, P.S.- Sahar, Circle- Madhawapur, Sub-Division- Benipatti, District- Madhubani purchased through Sale-Deed No.3679 dated 12.07.2013 which have been encroached/created hindrance by the private respondent nos. 8 to 12 as being the petitioner is a poor and weak person.
- b) Further to direct the respondents concerned upon whose direction the encroachment made and to created hindrance by the private respondent nos. 8 to 12 upon purchased land/own land of the petitioner, for which to pay suitable compensation to the petitioner for his physical and mental agony and financial harassment.
- c) For any other relief/reliefs for which the petitioner is also entitled to in accordance with law.”

3. It is the contention of the petitioner that his land has been forcibly encroached upon by the private Respondent Nos. 8 to 12. It is submitted that by creating road, the private respondents have encroached the purchased land of the petitioner. As a result, petitioner is not able to approach his land.



4. On the other hand, learned counsel appearing on behalf of the State, while opposing the prayer and submissions made on behalf of the petitioner, submits that the instant writ application is not maintainable and the issues raised by the petitioner cannot be decided under Article 226 of the Constitution of India. He further submits that Article 226 of the Constitution of India is pre-eminently a public law remedy and is not, generally, available as a remedy against private wrong.

5. Considering the rival submissions, this court finds that it is settled principle of law that there is a definite line of demarcation between a public wrong and private wrong. Learned counsel for the State is right in his submission that Article 226 of the Constitution of India is pre-eminently a public law remedy and not available as a remedy against private wrongs.

6. In this writ application the petitioner has prayed for removal of encroachment which is allegedly erected upon by the private respondents. It is not in dispute that private respondent Nos. 8 to 12 are neither public bodies nor are persons discharging public duties. Their alleged act of encroachment is not amenable to a writ jurisdiction. The remedy of the petitioner does not lie in the realm of public law remedy under Article 226



of the Constitution of India but falls within the domain of a Civil Court of competent jurisdiction.

7. The remedy of the petitioner, in the factual background of the present case, thus lies in approaching a civil court of competent jurisdiction for remedy of his grievances.

8. In the result and for the foregoing reasons, the instant writ application is not maintainable and is accordingly dismissed, with liberty to the petitioner to seeks remedy, which may be available to him, in accordance with law.

(Prabhat Kumar Singh, J)

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