

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11794 of 2024

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Kamendra Mani Tripathi, Son of Late Virendra Mani Tripathi, Resident of
Village - Nagdaha, P.O. - Nagdaha, P.S.- Malahi, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Co-operative Department,
Govt. of Bihar, Patna.
2. The Registrar, Co-operative Society, Bihar, Patna.
3. The Commissioner, Tirhut Division, Motihari, East Champaran.
4. The District Magistrate, Motihari, East Champaran.
5. The District Fishery Officer Cum Chief Executive Officer, East Champaran,
Motihari.
6. The Sub - Divisional Officer, Areraj, East Champaran.
7. The Circle Officer, Areraj, East Champaran.
8. The S.H.O., Malahi, East Champaran.
9. Areraj Block Fishermen Co-operative Society through its Minister Poonam
Devi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar No. III, Advocate
For the Respondent/s	:	Mr. Birju Prasad, GP-13
		Mr. Ajit Anand, AC to GP-13

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 08-08-2024

Heard the parties.

2. The petitioner is inhabitant of village Nagdaha
having his own raiyati land bearing Khesra No. 213, 221, 226,
227, 228, 232, 235 etc., but on account of diluvion of Gandak
river, the land of the petitioner and other villagers at present has
been made Payen and Sota.



3. Learned counsel for the petitioner contended that Areraj Block Fishermen Co-operative Society Ltd. contains twenty eight Jalkars in the year 2019-2020 to 2021-2022, the details whereof have been mentioned in Annexure-P/2, were settled with the Jalkars.

4. The petitioner is aggrieved with the settlement of Sakhwa Dear, Nagdaha and Kalkaliya Jalkar, which are situated within Panchayat Nagdaha. It is vehemently contended that Areraj Block Fishermen Co-operative Society earlier known as Gobindganj Thana Fishermen Co-operative Society Ltd. had moved before this Court in CWJC No. 9348 of 1999 over the issue of fishing right and this Court vide order dated 20.07.2000 rejected the claim of the petitioner of the said case while upholding the restrictions imposed by the authority in respect of fishing right over the raiyati land.

5. Learned counsel for the petitioner further contended that while the petitioner and other villagers have been enjoying the fishing right over the Jalkar in question, some of the anti-social elements started creating hindrances and, as such, apprehending the danger and in order to maintain the law and order, the petitioner approached before all the authorities. On a report submitted by SHO, Malahi PS, a proceeding under



Section 107 Cr.P.C. vide Case No. 735M/2023 has also been initiated by the SDO, Areraj, East Champaran. Respondent no.6, after hearing the parties and perusing the materials vide its order dated 16.01.2024 relegated the matter to respondent no.5, the District Fishery Officer-cum- Chief Executive Officer, East Champaran, Motihari to adjudicate the issue and pass order in respect of dispute arisen between the parties.

6. Respondent no.5 taking note of letter no. 847 dated 20.03.2024 as well as letter no. 715 dated 28.05.2024, withdrawn the order restraining the fishing right of all the Pattedar of Areraj Prakhand Matsyajivi Sahyog Samiti over Nagdaha Jalkar. The letter of the District Fishery Officer-cum- Chief Executive Officer, East Champaran, Motihari as contained in Memo No. 1143/Matasya/Motihari dated 06.06.2024, which is impugned herein, also stipulated that protection be given to respondent no.9 to allowing him to do the fishing over Nagdaha Jalkar. Aggrieved, the petitioner filed the present writ petition.

7. Considering the grievance of the petitioner and taking note of the submissions advanced on behalf of the petitioner as well as the impugned order, it appears that before passing the order, no notice or any opportunity was given to any stake holder, thus, this Court deems it fit and proper to relegate



the matter before respondent no.5, the District Fishery Officer- cum- Chief Executive Officer, East Champaran, Motihari, to look into the matter afresh, in the light of the order passed by this Court in CWJC No. 9348 of 1999 as well as the order dated 16.01.2024 passed by respondent no.6, S.D.O., Areraj, East Champaran, preferably within a period of four weeks from the date of receipt/production of a copy of this order.

8. It is also expected that before passing the final order, respondent no.5 shall give proper opportunity of hearing to all the stake holders.

9. The writ petition stands disposed of with the above direction(s).

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12-08-2024
Transmission Date	

