

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12834 of 2023

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Nawab Singh Son of Late Shivanath Singh Resident of Village-Rampur P.O.-
Rampur P.S.-Nawanagar, Dist.-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Buxar.
2. The District Panchayat Raj Officer, Buxar.
3. The Sub Divisional Officer, Dumraon, Buxar.
4. The Circle Officer, Kesath, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Ghosarvey, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, A.G.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 12-01-2024

Heard the parties.

2. The petitioner has preferred this Public Interest Litigation for a direction to the respondents to immediately remove the encroachment relating to plot/Kheshra No. 1169(New), 810(Old), under Khata No. 253(New), 116(Old) situated at Mauja Rampur on the land of Sarva Sadharan Ram Janki Mandir at Rampur, Thana-Nawanagar, within the District of Buxar (henceforth for short ‘the land in question’).

3. The facts of the case is/are as follows:-

4. The plot in question has been shown as



Thakurbari with an area of 5 decimals as '*Rasta*' (Road). A public petition was preferred before the Circle Officer, Kesath for removal of encroachment of '*rasta*' nearby temple. This led to Encroachment case no.03/2013 before the Circle Officer, Kesath and notices were issued to the encroachers and finally the Circle Officer passed the order dated 05.04.2013 for removal of encroachment.

5. Later, one of the encroacher Futun Pandey filed Encroachment Appeal no.77/2013 before the Collector, Buxar on the ground that Title Suit No.690/2013 has been filed for declaration of title over the encroached land, it being his ancestral property. Earlier T.S. No. 493 of 2013 was dismissed by the learned Sub Judge, Buxar as notice under section 80 C.P.C. was not given.

6. Another public petition was preferred on 17.03.2017 to the Circle Officer, Keshath, Buxar and a copy was given to the Collector, Buxar and the Sub Divisional Officer, Dumraon requesting them to ensure the removal of encroachment from the land in question. He further claims that Title Suit No.690/2013 has been filed in order to delay the removal of the encroachment.

7. The petitioner alleged that the '*aam rasta*'



to the temple has been blocked by the encroachers making pucca constructions and despite having found the land recorded as '*rasta*', they are not vacating it in the name of Title Suit thus affecting the villagers.

8. This Court has noted that although in number of paragraphs, allegations have been made against one Futun Pandey, he has not been made a party respondent in the present case.

9. As per the reply filed by the State, said Futun Pandey has filed Miscellaneous Appeal No. 08 of 2017 before the Court of District Judge, Buxar as also Civil Miscellaneous Case No. 837 of 2023 before the Patna High Court and they have averred that the respondents will abide by the orders passed in the said cases.

10. From the aforesaid facts, it is clear that the petitioner wants removal of the encroachment for which appropriate procedure stands prescribed under the Land Encroachment Act. Instead of moving on said route, a Public Interest Litigation has been preferred which in the given facts and circumstances, especially when allegations have been levelled against individual seems to be a Private Interest Litigation. Additionally, as recorded, he has not been made party



respondent.

11. The petitioner is well advised to take the alternative remedy available under the appropriate Act, if he so wants.

12. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Neha/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.01.2024
Transmission Date	

