

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15253 of 2023

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Indrajeet Kumar Son of Dhanik Lal Singh Resident of Mohalla-Bengali Tola,
P.S. and District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Land Revenue and Land Reform Department, Patna.
2. The District Magistrate-Cum-Collector, Samastipur.
3. The Circle Officer Anchal-Jitwarpur, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Deepak Kumar Singh, Adv.

For the Respondent/s : Mr.Md. Khurshid Alam, AAG-12

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 17-12-2024

Though the present writ petition has been filed for quashing the order dated 12.4.2023, passed in Encroachment Appeal Case No. 79 of 2020 by the Collector, Samastipur, whereby and whereunder the order passed by the Circle Officer, Jitwarpur, Samastipur, dated 14.1.2020/31.1.2020 in Encroachment Case No. 56 of 2019-20, has been upheld and notice has been issued to the petitioner to remove the encroachment made over the land, appertaining to Khata No. 55, Khesra No. 231, ad-measuring 4 dhur, situated at Mohalla-Bengali Tola, Thana No. 199, Circle-Jitwarpur, District-



Samastipur, however, at the outset, it is submitted by the learned counsel for the petitioner that the petitioner is in peaceful possession of the land in question on account of a judgment and decree dated 21.6.84, passed by the learned Court of Munsif 2nd, Samastipur, in Title Suit No. 85 of 76, whereby and whereunder the suit filed by the ancestors of the petitioner has been decreed against the defendant Nos. 1 and 2 i.e. the Chairman, District Board, Samastipur and the Administrator & DDC, Samastipur, I/C., Samastipur District Board, Samastipur, as also against the District Magistrate, Samastipur and they have been directed to hand over the possession of the suit land to the plaintiff within 30 days. It is submitted that thereafter, the suit land, as aforesaid, was handed over to the ancestors of the petitioner/ the petitioner and subsequently, the petitioner has been coming in peaceful possession of the aforesaid land in question.

2. As far as the issue of non-furnishing of succession certificate by the petitioner is concerned, the learned counsel for the petitioner has submitted that there is no dispute with regard to the petitioner being the descendant of the decree-holder, namely, Rami Mahto, as is borne out by the document, annexed as Annexure-5 to the supplementary affidavit filed by the



petitioner, which is the *Vansawali* of late Rami Mahto, as has been declared on oath by the petitioner and endorsed by the Executive Officer, Samastipur.

3. The learned counsel for the Respondent-State submits that though undeniably the suit land, as aforesaid, has been decreed in favour of the so called ancestor of the petitioner, however, the Respondent-State does not know as to whether the petitioner is the descendant of the said late Rami Mahto or not.

4. I have heard the learned counsel for the parties and perused the materials on record from which it is clear that the aforesaid land in question has been decreed in favour of late Rami Mahto, vide judgment dated 21.6.1984, passed by the learned Court of Munsif 2nd, Samastipur, in Title Suit No. 85 / 76, hence, admittedly, the land in question is a private raiyati land and not a public land, thus, the petitioner, who has also furnished the *Vansawali*, as aforesaid, cannot be evicted from the land in question, by resorting to encroachment proceedings under the provisions of the Bihar Public Land Encroachment Act, 1956, which can only be initiated with regard to a public / government land / rasta.

5. For the foregoing reasons, I deem it fit and proper to quash the order dated 14.1.2020/31.1.2020, passed in



Encroachment Case No. 56 of 2019-20, by the Circle Officer, Jitwarpur, Samastipur, as also the order dated 12.4.2023, passed in Encroachment Appeal Case No. 79 of 2020 by the Collector, Samastipur, however, the issue regarding the right, title and possession of the petitioner over the land in question is left open.

6. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.12.2024
Transmission Date	NA

