

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17584 of 2023

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Bhartiya Krishi Mazdur Sangh Through its Secretary, Paras Nath Sahay, aged about 38 years (male), resident of Village-Loshghani, P.S. Piri Bazar, District-Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar Through Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary Rural Development Department, Old Secretariate, Patna.
3. The District Magistrate, Lakhisarai
4. The Sub-divisional Officer, Lakhisarai
5. The Circle Officer, Suryagarha, Lakhisarai.
6. Sachidanand Sao Son of Late Mishri Sao, Resident of Village Piri Bazar, P.S. -Piri Bazar, District- Lakhisarai.
7. Anchal Amin, Suryagarha Block, Lakhisarai

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Indu Bhushan Prasad, Advocate
For the Respondent/s : Mr.Mujtabaul Haque, GP-12

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 01-02-2024

The petitioner claims to be a registered society and has preferred the writ petition by way of Public Interest Litigation (henceforth for short 'the PIL') for a direction upon the respondents to enquire into the 'gairmajarua' land which is actually a drain used for agriculture purposes but the locals are filling earth which will affect the villagers livelihood.

2. The brief facts in this case are as follows:



3. The land in question is a 'Gairmazura Malik' situated in Mauza-Loshghani, P.S.-Piri Bazar, Thana No. 69, Khata No. 250, Khesra No. 1244, Area 8 decimal described as 'Nala' land or Khanta Land and water passing through it is used for the purposes of irrigation of agriculture fields of the locality and hundreds acres of areas are irrigated from it.

4. However, of late, it was being filled by the interested persons forcing the people of the locality to prefer application before the respondent District Magistrate, Lakhisarai, though the 'Mukhia', the 'Sarpanch' as also the others nominated members of the Panchayat Loshghani in the year 2006. However, no action was taken by the District Magistrate.

5. The contention is that respondent no.6 Sachidanand Sao is now filling it for his house construction which will deprive the farmers of water in their agriculture lands. The petitioner claims that the respondent no.6 whose father purchased a piece of land adjoining the 'Nala' is deliberately doing so despite protests made by the villagers. He submits that act of the respondent no.6 is hampering the movement of water to the agricultural fields of the local villagers and as such immediate action is required. Learned counsel has drawn attention of this Court to an order in C.W.J.C.



No. 4048 of 2020 preferred by Kailash Bind and others relating to said removal of the encroachment in which on 24.02.2024 direction was given to the respondents to dispose of any application so preferred in accordance with law.

6. Learned State counsel on the other hand submits that instead of taking steps under the Bihar Public Land Encroachment Act by preferring a proper petition before the appropriate authority, the petitioner has rushed to this Court by way of 'the PIL' despite the fact that earlier he was granted liberty in C.W.J.C. No. 4048 of 2020 and as such the writ petition fit for dismissal.

7. Earlier, the locals came to this Court with C.W.J.C. No. 4048 of 2020 which was disposed of by the Patna High Court on 24.2.2020 and this Court would like to incorporate the relevant part of the order which read as follows:

"After the matter was heard for some time, finding the Court not to be in favour of submission made across the bar, learned counsel for the petitioners seeks permission to approach the authorities concerned for highlighting the grievance in



accordance with law.

Mrs. Archana Prasad, learned counsel for the respondents, states that any such request shall be dealt with expeditiously and in accordance with law.

Statement is taken on record.

In view of the same, the present petition stands disposed of with a direction that any such request is received from the petitioners, the same shall be dealt with in accordance with law with reasonable dispatch and not later than six months thereafter".

8. Now with a new nomenclature i.e. 'Bhartiya Krishi Mazdur Sangh' through its Secretary, once again the present petition has been preferred. There is nothing on record to show whether the petitioner ever approached before appropriate authority under the Bihar Public Land Encroachment Act and/or the outcome of any petition so preferred earlier following the order passed on 24.2.2020 in C.W.J.C. No. 4048 of 2020.



9. Certainly, bypassing the remedy under the law of the land, the petitioner has approached this Court which in the given facts and circumstance is liable to be dismissed.

10. We accordingly are not inclined to extend any relief to the petitioner. The C.W.J.C. No. 17584 of 2023 is dismissed. No cost.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Ravi/-

AFR/NAFR	
CAV DATE	
Uploading Date	05.02.2024
Transmission Date	

