

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17450 of 2024

1. Indradeo Prasad S/o Late Dwarka Rai, Resident of Saidpur Kurji, Kothiya, P.O. Sadakat Ashram, P.S Digha, District- Patna.
2. Shashi Kumar, S/o Hari Kishan Ray, Resident of Saidpur Kurji, Kothiya, P.O. Sadakat Ashram, P.S Digha, District- Patna.
3. Tej Narayan Ray, S/o Munshi Ray, Resident of Saidpur Kurji, Kothiya, P.O. Sadakat Ashram, P.S Digha, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Government of Bihar, Sardar Patel Bhawan, Patna.
2. The District Magistrate cum Collector, Patna.
3. The Additional Magistrate cum Collector, Patna.
4. The Circle Officer, Patna Sadar.
5. Lallan Prasad Singh, S/o Late Mohabat Singh, Resident of village Kisanpur, P.S. Bikram, District Rohtas, Presently residing at Saidpur Kurji, Kothiya, P.O Sadakat Ashram, P.S.- Digha, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sumit Kumar Jha, Adv. Ms. Abhilasha Jha, Adv.
For the State	:	Mr. Rakesh Ranjan, AC to G.P. 22.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 19-11-2024 Heard learned counsel for the petitioners and learned
A.C. to G.P. 22.

2. The land in dispute in the instant writ application
pertaining to Khata No. 1477, Plot No. 5165 and 5167
measuring an area of 30 decimal situated under the Digha Police
Station.



3. From perusal of the pleadings made in the instant writ application, it would manifest that admittedly petitioners have no concern with the land in question that as neither petitioners are the owner nor the purchasers of the land in dispute but then have filed the instant writ application on the ground that order impugned passed by the Circle Officer in pursuance of an order dated 28.11.2022 in Cr.W.J.C. No. 1936 of 2017 shall affect the public at large.

4. At this stage learned counsel appearing on behalf of the State submits that if petitioners are aggrieved by the fact that the order of the C.O. shall affect the public at large in that event the petitioners ought to have filed a P.I.L but then the instant writ application has been filed which amply demonstrates that petitioners have some personal interest in the case.

5. From the pleadings made in the writ application, it manifests that the respondent no. 5 in the year 1978 by a registered sale deed had purchased the land in dispute from one Kailash Ray and thereafter, had applied for mutation, but it appears that the Circle Officer rejected the mutation application of the respondent no. 5 against which the respondent no. 5 filed an appeal before DCLR who set aside the order of the Circle



Officer by which mutation application of the respondent no.5 was rejected. Against the order of the DCLR in appeal, the petitioners herein filed a revision application before the Divisional Commissioner, Patna which was entertained and the order of the DCLR was set aside as such the order passed by the Circle Officer revived. The respondent no.5 against the order of the Divisional Commissioner, Patna filed a writ application bearing CWJC No. 5995 of 1984 and the same was allowed in pursuance whereof the Circle Officer mutated the name of the petitioners over the land in dispute.

6. It is an admitted fact that the *jamabandi* created in name of the respondent no. 5 till date has not been set aside and when the respondent no.5 after *jamabandi* was created tried to construct his boundary over the land in dispute when the petitioners started objecting as such the respondent no. 5 moved before this Court by filing Cr.W.J.C. No. 1936 of 2017 for a direction upon the authorities to provide adequate security and safety to the petitioner (respondent no.5 herein) in getting the boundary wall of his land constructed pertaining to Khata no. 1477, Plot no. 5165 and 5167 measuring an area of 30 decimal situated under Digha police station and further for a direction upon the respondents to restrain the respondent 2nd set from



disturbing the petitioner in construction of his boundary wall of the plot belonging to the petitioner (respondent no.5 herein).

7. Cr.W.J.C. No. 1936 of 2017 was disposed of by an order dated 28.11.2022 wherein this Court had recorded:- In the given facts and circumstances of the case, the writ application is being disposed of granting liberty to the petitioner to file an appropriate application before the Circle Officer, Patna Sadar who will examine the same and on being satisfied with the documents produced by the petitioner (respondent no.5 herein) showing his exclusive right, title and possession over the land and that there is no order of restraint by any competent Court/ forum/ authority against the petitioner (respondent no. 5 herein) restraining him from going on the land or to maintain status quo, in the opinion of this Court, the Circle Officer shall take appropriate action including requisitioning of police force to ensure that no law and order problem arises on the spot at the time of construction. The Court thereafter recorded:- let it be recorded that the order of this Court shall not be construed as having given any finding with respect to right, title and possession of the petitioner (respondent no.5 herein) and it all depends upon the materials which will be placed before the Circle Officer, Patna Sadar.



8. In pursuance of the order passed by this Court in the aforesaid criminal writ the petitioner represented before the Circle Officer who accordingly passed an order dated 27.09.2024 (Annexure-P/3) which is impugned in the instant writ application at the instance of the petitioner.

9. The Circle Officer after considering the case in detail has recorded that in view of order dated 28.11.2022 passed in Cr.W.J.C. No. 1936 of 2017 at the time of construction of the boundary for maintaining law and order has directed his office to send a copy of the order to the concerned police station for requisitioning force.

10. Learned counsel appearing on behalf the State submits that this Court while disposing of the aforesaid criminal writ had given a specific direction to the Circle Officer, Sadar Patna to ensure that no law and order problem is created at the time of construction of the boundary, in the event the respondent no.5 is able to satisfy that he has right, title and possession over the land in dispute by way of documentary evidence. It is next submitted that since the Circle Officer has requested the concerned police station for sending force in the event any untoward occurrence takes place amply demonstrates that the Circle Officer was prima facie satisfied that respondent no. 5



has right, title and possession over the land in question.

11. It is next submitted that the instant writ application has been filed by the petitioners challenging the order of the Circle Officer when they have no locus to challenge the order as petitioners are neither the owner nor the purchaser of the land in question. It is further submitted that before issuing a writ of certiorari it has to be analyzed, whether the applicant is a person whose legal right has been infringed, has he suffered a legal wrong or injury in breach of the law that is his right recognized by law, has been prejudicially and directly affected by the act or omission of the authority or whether any order to his prejudice has been passed without hearing him, though in law he was entitled to a hearing. It is next submitted that petitioners directly are not affected by the order of the C.O. but then it is their contention that the land is a government land, it is next submitted that if the land in dispute is a government land in that event it is the concerned State authorities who are authority competent to decide the issue as this Court had made it very clear that order of the Court is not be construed as having given any findings with respect to the right, title and possession of the petitioner (respondent no. 5 herein) and it will all depend upon the materials which will be placed before the Circle Officer,



Patna Sadar. The learned counsel next submitted that had the land being a government land in that event the Circle Officer would not have requested for requisitioning police force but then fairly submits that the authorities are not incompetent not to decide the issue that as to whether the land in question is a government land or not as the Circle Officer earlier had recorded that the land in dispute is a government land as would manifest from Annexure-1 to the writ application.

12. Learned counsel for the petitioners is not in a position to controvert the submissions made by the learned counsel appearing on behalf of the State and fairly admits and submits that petitioners are neither the owner nor the purchasers of the land but then the villagers were using the land since long before for the purposes of road which now stands encroached and the Circle Officer despite recording in his Letter No. 4254 dated 17.07.2017 that the land in dispute is a government land but in garb of the order passed by this Court as recorded hereinabove has passed the order impugned.

13. The Court completely agrees with the submissions made by learned counsel appearing on behalf of the State as such is not inclined to entertain the writ application.

14. However, the District Magistrate, Patna shall be at



liberty to get the matter inquired that as to whether the land in dispute is a government land or private land.

15. Accordingly, the present writ application is dismissed.

(Satyavrat Verma, J)

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