

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17392 of 2023

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Shamsh Tabrez Son of Mohammad Najmuddin, resident of Baksa, P.S. -
Sagauli, District - East Champaran.

... .. Petitioner

Versus

1. The State of Bihar through the District Magistrate, East Champaran,
Motihari.
2. The Collector- cum-District Magistrate, East Champaran, Motihari.
3. The Circle Officer, Sugauli, East Champaran, Motihari.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate
For the Respondent/s : Mr. Sajid Salim Khan (SC- 25)

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 09-01-2024

Heard the parties.

2. In this case, the petitioner has prayed for the
following reliefs:-

“(i) *For issuance of a writ in the nature of
mandamus directing the concerned
respondent authorities not to demolish
part of the residential house of the
petitioner situated at village Baksa, P.S
Sugauli, District East Champaran
pertaining to Khata No.38, Khesra
No.1099 as he is the rightful owner of the
land in question and the respondents are
hell bent to demolish it in the garb of
order dated 26.07.2023 passed in
Encroachment Appeal Case No. 38/2018-
19 and order dated 05.08.2017 passed in
Encroachment Case No.02/2017-18*



which relates to Khata No.133, Khesra No.1090 as the petitioner has not encroached the government land and there is no proper demarcation and measurement and also that the orders holding the petitioner to have encroached the government land has been passed without service of notice under section 3 of the Bihar Public Land Encroachment Act.

- (ii) For further to set aside the order dated 05.08.2017 passed in Encroachment Case No. 2/2017-18 by the Circle Officer, Sugauli as also the order dated 26.07.2023 passed by the District Magistrate, East Champaran in Encroachment Appeal Case No. 38/2018-19 so far as it relates to the petitioner's residential house situated at Village-Baksa, Block- Sugauli, District- East Champaran, Khata No.38, Khesra No. 1099 which was purchased by the father of the petitioner and it has been illegally held that the petitioner has encroached 0.665 decimal of government land relating to khata no.133 khesra no.1090.*
- (iii) For further to direct the concerned respondent not to demolish the residential house without giving opportunity to the petitioner and without measurement of the land in his presence.”*



3. This application is disposed of with a direction to the Circle Officer, Sugauli, District- East Champaran (Motihari) to get the measurement done in presence of the petitioner so that he may know the exact position where he stands. If the Circle Officer finds any encroachment, the petitioner will himself remove the same. Till the measurement is done, no coercive step shall be taken against the petitioner.

(Sandeep Kumar, J)

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