

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1196 of 2020**

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Manoj Kumar S/o Shri Ganesh Das @ Ganesh Dass Kashyap resident of Vill.-  
Choti Marai, Dhanauti, P.S. Hajipur, District- Vaishali ... Petitioner  
Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
2. The District Magistrate-cum-Collector, Vaishali at Hajipur.
3. The Superintendent of Police, Vaishali at Hajipur.
4. The Sub-Divisional Magistrate, Vaishali at Hajipur.
5. The Circle Officer, Hajipur, Vaishali.
6. The S.H.O., Industrial Area Police Station, Hajipur, Vaishali.
7. Ramdev Das, S/o Late Jaga Das, resident of Choti Marai, Dhanauti, P.S. Hajipur, District- Vaishali.
8. Indradev Das, S/o Late Rambabu Das, resident of Choti Marai, Dhanauti, P.S. Hajipur, District- Vaishali.
9. Ramvriksh Das, S/o Late Jaga Das, resident of Choti Marai, Dhanauti, P.S. Hajipur, District- Vaishali.

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr. Anand Prakash Prabhakar, Advocate  
For the Respondent/s : Mr. SK Ghosarvey, AC to AAG 3.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH**  
**ORAL ORDER**

10    15-01-2024                      Heard learned counsel for the petitioner and the State.

2. Present writ petition has been filed with a prayer to provide him a road for his egress and ingress in his house being obstructed by private respondent no.7.

3. It is submitted by learned counsel for the petitioner that petitioner's mother purchased the piece of land bearing area 1-1 Katha i.e. 0.0177 Hectare from Jaga Das (father of the Private Respondents) vide two registered sale deeds dated 04.05.1987 from the plot of Mauza-Dhanauti Maulana Aabid



Survey Ward No. 13, Khata No. 179, Khesara No. 1170. Thereafter, they mutated the land in the name of the mother of the petitioner namely Smt. Malti Devi @ Smt. Manti Devi and built a house over the said plot. Land possession certificate has also been issued by the Circle Officer, Hajipur and land revenue is being regularly paid to the Government. Photocopies of Land Possession Certificate as well as revenue receipt are annexed herewith and marked as annexure 1.

4. Learned counsel appearing for the State has filed counter affidavit. It is stated that the spot in question was examined by the respondent authorities and a report was submitted by the Halka Karamchari of the Hajipur Circle. Authorities found the pieces of land, claimed to have been used once by the petitioner approaching pathway are the land owned by other persons mentioned in their respective names in relevant records-of-right and they have been found in possession on their land. As per report submitted by Halka Karamchari, the land bearing RSP No. 1172 under Khata 180 measuring an area 0.0235 hectare is maintained under Jamabandi No. 180/5868 created in the name of Ramdev Das and Ram Briksha Das S/o Jaga Das and Mosmat Rajkumari Devi w/o Late Ram Babu Das and RSP 1170 and 1171 measuring an area 0.0113 hectare is



maintained in the name of Jaga Das S/o Gokul Das under Jamabandi No. 179 and all the land above detailed are situated adjacent to each other under one and enquiry the people present there informed that Jaga Das had sold a piece of land measuring an area .0177 hector out of RSP No. 1170 under Khata 179 to Smt. Malti Devi w/o Ganesh Das which is maintained under Jamabandi No. 4687 on which exists the house of the petitioner's family. 5. Pathway claimed by the petitioner does not pass through the Government land rather it is owned by respondent no.7 to 9 vide corresponding documents available in Block Office, Hajipur as Jamabandi no.179/5668 (annexure B series).

5. Respondent no. 7 to 9 have also filed counter affidavit. It is stated that petitioner's mother purchased pience of land bearing area 1-1 Katha i.e. 0.0177 Hectare from Jaga Das (father of the Private Respondents) vide two registered sale deeds dated 04.05.1987 from the plot of Mauza-Dhanauti Maulana Aabid Survey Ward No. 13, Khata No. 179, Khesara No. 1170. In the aforesaid sale deeds, there is no mention of any pathway to the petitioner's land. Petitioner's allegation, that a bathroom has been constructed on the pathway, is incorrect as the said bathroom is a very old construction, i.e. prior to the



aforesaid sale deeds.

6. It is settled law that article 226 of the Constitution of India is to enforce various rights of the public or to compel the public or statutory authorities to discharge their public duties and/or to alleged act of encroachment is not amenable to writ jurisdiction. Remedy of petitioner does not lie in the realm of public law remedy under Article 226 of the Constitution of India, but falls within the domain of a civil Court of competent jurisdiction and as police are concerned, they cannot be directed to take law in their hands and do what the law does not permit them to do. In the present case, petitioner has prayed for removal of encroachments from their land made by private respondent nos. 7 to 9. They are neither a public body nor they are persons discharging public duties and the alleged act of encroachment is not amenable to writ jurisdiction.

7. Remedy of the petitioner, in the factual background of the present case, thus, lies in approaching a Civil Court of competent jurisdiction. In this regard, reference can be made to the decision of the Hon'ble Division Bench of this Court, rendered in case of **New Tirupati Travels Vs. State of Bihar**, reported in **(2015) 1 PLJR 952**.

8. In the result and for the foregoing reasons, this writ



petition is disposed of with liberty to the petitioner to file proper  
suit before the civil court of competent jurisdiction.

**(Prabhat Kumar Singh, J)**

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