

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3953 of 2019

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2. Gopal Sharma S/o Late Murlidhar Sharma Resident of Mohalla-Bishwanathganj (Khagaria) P.O. Mukhya Dakghar,Khagaria,P.S. and Dist.-Khagaria
 3. Ashok Sharma S/o Late Murlidhar Sharma Resident of Mohalla-Bishwanathganj (Khagaria) P.O. Mukhya Dakghar,Khagaria,P.S. and Dist.-Khagaria
 4. Vishnu Kumar Sharma S/o Late Murlidhar Sharma Resident of Mohalla-Bishwanathganj (Khagaria) P.O. Mukhya Dakghar,Khagaria,P.S. and Dist.-Khagaria
 5. Manoj Kumar Sharma S/o Late Murlidhar Sharma Resident of Mohalla-Bishwanathganj (Khagaria) P.O. Mukhya Dakghar,Khagaria,P.S. and Dist.-Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Munger Division Munger
3. The Collector/District Magistrate, Khagaria
4. The District Planning Officer, Khagaria
5. Circle Officer, Khagaria
6. The Executive Engineer, Local Area Engineering Organization,Works Division,Khagaria
- 7.1. Sunaina Devi Wife of Late Ram Chandra Paswan, Resident of Vidyadhar, Khagaria, Ward No. 6, P.S. and District- Khagaria.
- 7.2. Ritu Kumari D/o Late Ram Chandra Paswan, Resident of Vidyadhar, Khagaria, Ward No. 6, P.S. and District- Khagaria.
- 7.3. Krishna Raj Son of Late Ram Chandra Paswan, Resident of Vidyadhar, Khagaria, Ward No. 6, P.S. and District- Khagaria.
- 7.4. Prince Raj Son of Late Ram Chandra Paswan, Resident of Vidyadhar, Khagaria, Ward No. 6, P.S. and District- Khagaria.
8. Pashupati Kumari Paras, Son of Late Jamun Das Hon'ble Minister Animal Husbandry and Fisheries Resources Department,Bihar,Patna Residing at 1,Wheeler Road,Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dronacharya, Advocate
For the State : Mr. Sajid Salim Khan (SC-25)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER



6 26-06-2025 Heard learned counsel for the petitioners and learned Senior counsel for the State.

2. The present writ petition has been filed for issuance of a writ in the nature of mandamus to restrain the respondent authorities from construction of P.C.C road in Ward no.6 of Khagaria Municipal Council from protection embankment to house of one Jerman Mukhiya including over the land of the petitioners appertaining to Khata No.310, Plot No.1882, Area 4 Katha 7 dhurs as well as Khata No.373, Plot No.1881, Area 10 katha total 14 katha 7 dhurs of Mauza Mathurapur, P.S.+ District- Khagaria falling in Ward no.6 of Khagaria, Municipal Council. Petitioners have also prayed for the following relief/s:-

“I. Construction of P.C.C. road from protection embankment to house of Jerman Mukhiya falling under Ward No.6 of Khagaria municipal council including over the land of petitioners be stayed forthwith.

II. The respondent authorities be further restrained from using the land of petitioners in any manner prejudicial to right, title & interest of petitioners which is pending till date.

III. The respondent no.8 be restrained from interfering in the raiyati land of petitioners for construction of P.C.C road from protection embankment to house of one Jerman Mukhiya



in Mauza- Mathurapur, Khagaria falling in Ward no.6 of Khagaria Municipal council.

IV. The petitioners be paid adequate and necessary compensation for their harassment and act against their right, title & interest.

V. The petitioners be paid the cost of legal proceeding throughout.

VI. The petitioners be also granted any other relief/s permissible under the facts and circumstances of the case.”

3. Learned counsel for the petitioners submits that due to arbitrary act of one Ram Chandra Paswan now substituted *vide* order dated 20.02.2025 and represented by his heirs and legal representatives as respondent nos.7.1 to 7.4, some property dispute has arisen between the petitioners and the said Ram Chandra Paswan now represented by his heirs and it is due to this reason, a Title Suit No.65 of 2017 has been filed by the petitioners against the said Ram Chandra Paswan. Counsel submits that at the level of local Engineering Organization, Work Division, Khagaria, an enquiry was conducted about the land in which it has been identified that the said land and plots are of Gair mazarua khata and local people have constructed the houses over the same and Title Suit No.65 of 2017 is pending in the Civil Court, Khagaria. Counsel submits that the petitioners



also residing on the said plot and the said plot has been purchased by the petitioner in the year 1983, but due to mistake, the wrong plot nos. 1481 and 1482 have been inserted in the sale deed, in place of plot nos.1881 and 1882. Counsel further submits that identifying such mistake in the sale deed, a rectification document has been prepared in which plot nos. 1481 and 1482 mentioned in the original sale deed has been rectified as plot nos.1881 and 1882. Counsel submits that the *jamabandi* of said plots are also running either in the name of petitioner or in the name of said respondent no.7.

4. Learned counsel for the petitioners further submits that after filing of the present writ petition, this Court *vide* order dated 01.03.2019 has pleased to direct the Collector, Khagaria that he shall ensure that no private land is used without proper acquisition/consent of the land holder for the purpose of construction of any road. Counsel submits that in gross violation of the said order, the construction of road on the plot no.1881 has been made. Counsel further submits that on the previous occasion, this matter has been raised before this Hon'ble Court, upon which this Hon'ble Court has pleased to observe that for the protection from violation of order dated 01.03.2019, a contempt petition ought to be filed. Counsel submits that in the



light of such observation, contempt petition has been filed and it is also pending.

5. Learned Senior counsel appearing for the State submits that by way of filing reply to the counter affidavit, petitioners themselves admits that the name of plots in the original sale deed is 1481 and 1482 which has been changed by another deed which is impermissible in law. Senior counsel submits that once wrong entry has been made in any sale deed, then any change in the sale deed can be made only by virtue of filing the title suit and not otherwise. Senior counsel further submits that the stand of the State is very clear that the petitioners are not the raiyati holder of plot nos. 1881 and 1882 which is apparent from the pleadings of the petitioners. It has been accepted by the petitioners themselves that a Title Suit No. 65 of 2017 is pending. Senior counsel submits that the specific stand of the State is that plot no.1881 is the plot on which the road has been constructed and the said plot is in nature of Gair mazarua land. This land is not a raiyati land.

6. In this view of the matter that in the original sale deed, plot nos.1481 and 1482 is recorded in the year 1983 and the said rectification document alleged to be prepared on 07.07.1997, suit has been filed in the year 2017. Hence, this



Court is of the firm view that till date, the petitioners are not the *raiyat* of plot nos.1881 and 1882. Therefore, the present writ petition is hereby dismissed with liberty that in future if, title comes in favour of the petitioners for those plots, then they shall be at liberty to raise the claim in future according to the situation which shall exist.

(Dr. Anshuman, J)

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