

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5724 of 2023

Bajjnath Singh S/o- Late Ramlagan Singh Resident of Village- Bigan Bigha,
Ward No.- 25, P.S.- Daudnagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
2. The Executive Officer, Nagar Parishad, Daudnagar, Aurangabad.
3. The Collector, Aurangabad.
4. The Sub-Divisional Officer, Daudnagar, Aurangabad.
5. The Circle Officer, Daudnagar, Aurangabad.
6. Abhimanyu Singh, S/o Late Mundar Gope Resident of Village- Bigan Bigha, Ward No.- 25, P.O. and P.S.- Daudnagar, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ravindra Kumar, Advocate
For the State	:	Mr. Abbas Haider, SC-06
For the Resp. No. 06	:	Ms. Dimpal Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 24-03-2025

Heard Mr. Ravindra Kumar, learned counsel for the petitioner, Mr. Abbas Haider, learned Standing Counsel No. 06 for the State and Ms. Dimpal Kumari, learned counsel appearing on behalf of Respondent No. 06.

2. The present writ petition has been filed for the following reliefs/directions :



*“I. For issuance of writ in the nature of mandamus commanding and directing the respondent no. 2 to restrain the respondent no. 6 for illegal construction without any permission under Nagar Parishad area upon land bearing Khata No. 116, 164 Plot No. 1118, 1117 area 98 Decimals belongs in share of the petitioner which is under Judicial Process for partition.
II. For grant of any other incidental or consequential relief to which the petitioner may be found entitled to considering the facts and circumstances of the present case.”*

3. Learned counsel for the petitioner submits that the petitioner had earlier moved before this Court for grant of reliefs as prayed for in the present writ application in C.W.J.C. No. 6138 of 2022 (Bajinath Singh Vs. State of Bihar & Ors.) where the petitioner has withdrawn the petition with liberto to agitate his grievance before the Executive Officer, Nagar Parishad, Daudnagar, Aurangabad (Respondent No. 02). The present case is pertaining to Khata No. 116, 164, Plot No. 1118, 1117 total area 98 decimals belonged to the petitioner as ancestral joint property. Learned counsel for the petitioner submits that in the year 2021, the petitioner has come to know about the construction of house of Respondent No. 06 upon the aforesaid land in question. The land in question comes under the jurisdiction of Nagar Parishad,



Daudnagar and any construction should be made after taking the prior permission of the Nagar Parishad. Learned counsel for the petitioner submits that the petitioner had filed a representation on 18.10.2021 before the Respondent No. 4 with prayer to restrain the Respondent No. 06 from illegal construction but no action has been taken by the authority concerned. The land in question is ancestral joint property of the petitioner and their family member and there is no partition made between the parties. So, the petitioner has filed a Partition Suit vide Title Suit No. 300 of 2021 which is still pending before the learned Sub-Judge-I, Aurangabad for consideration. Learned counsel for the petitioner submits that the Respondent No. 02 has issued a letter dated 08.01.2022 to the Respondent No. 06 and directed him to stop the illegal construction which is being constructed without permission of Respondent No. 02. Learned counsel for the petitioner submits that even after the direction of Respondent No. 2, the illegal work was not stopped by the respondents then the petitioner has come before the Hon'ble Court in C.W.J.C. No. 6138 of 2022 (Bajinath Singh Vs. State of Bihar & Ors.) and the same was withdrawn with the liberty to agitate the grievance before the Executive Officer, Nagar Parishad, Daudnagar, Aurangabad (Respondent No. 2). Learned counsel for the petitioner submits that the petitioner is



running for redressal of his grievances but no action has been taken by the authority concerned.

4. A counter affidavit has been filed on behalf of Respondent No. 2 stating therein that the present writ petition are grossly misconceived and deliberately manufactured so as to abuse the process of law. The petitioner has willfully suppressed the material facts which had transpired in the backdrop of the present case. The petitioner has not approached this Hon'ble Court with clean hands and it appears from the pleadings of writ petition that the present petition is arising out of civil dispute between the petitioner and Respondent No. 06 for which Title Suit No 300 of 2021 is pending before the Sub-Judge-I, Aurangabad and the Civil Court for deciding the title of the property with respect to joint family property of the petitioner and the only Civil Court is competent to pass an appropriate order and instead of filing of injunction of the aforesaid Title Suit, the petitioner has filed the present writ petition.

5. A counter affidavit has been filed on behalf of Respondent No. 06 stating therein that the present dispute between the parties regarding ancestral properties for which Title Suit No. 300 of 2021 is pending before the Sub-Judge-I, Aurangabad for consideration, and after filing of the present writ petition, the



Respondent No. 2 (Executive Officer, Nagar Parishad, Daudnagar, Aurangabad) issued show cause notice vide letter no. 196 dated 20.02.2025 to the Respondent No. 6 and the Respondent No. 6 has submitted his reply of show cause on 25.02.2025 and ready to submit all relevant documents regarding land and construction over it and the Respondent No. 6 had already deposited the fee for construction of map in the year 2022 itself. Respondent No. 6 has legally making construction over the land in question and it is only Nagar Parishad is only competent to verify the matter regarding any illegal construction in his jurisdiction.

6. Having heard the counsel for the parties and perused the material on record, it transpired that the land in question is sub-judiced before the competent court of law and the petitioner had filed a Title Suit No. 300 of 2021 and the Respondent No. 6 is the defendant no. 3 in the aforesaid Title Suit and the same is still pending for consideration.

7. Considering the aforesaid facts that the land in question is sub-judiced before the competent Civil Court and the petitioner had earlier come before this Hon'ble Court in C.W.J.C. No. 6138 of 2022 (Bajinath Singh Vs. State of Bihar & Ors.) and this Court has given liberty to pursue the matter before the



Respondent No. 2 and petitioner has not filed any injunction petition in the aforesaid Suit with regard to land in question.

8. No case is made out for interference in the matter. It is, accordingly, dismissed.

(Rajesh Kumar Verma, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.03.2025
Transmission Date	N.A.

