

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11380 of 2021

- 1.1. Lalan Singh Son of Late Deo Pujan Singh, Resident of Village - Khajuri, P.S. - Naubatpur, District- Patna.
- 1.2. Awadh Singh Son of Late Deo Pujan Singh, Resident of Village - Khajuri, P.S. - Naubatpur, District- Patna.
- 1.3. Niranjana Singh Son of Late Deo Pujan Singh, Resident of Village - Khajuri, P.S. - Naubatpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Department, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Sub-Divisional Officer, Danapur Sub-Division, District- Patna.
4. The District Collector, Land Reforms, Danapur, Patna.
5. The Circle Officer, Naubatpur, District- Patna.
6. The Station House Officer, Naubatpur Police Station, District- Patna.
7. Surendra Sao Son of Baugali Sao Resident of Village- Khajuri, Police Station- Naubatpur, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner : Mr.Santosh Kumar
For the State : Md. Irshad A.C to S.C-I

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 01-08-2025

In the instant petition, petitioners have prayed

for the following relief:-

(a) To issue a writ of mandamus or any other writ or writs, direction directions authority for removal of unauthorized construction made on petitioners Plot No. 859 and 860 area 2 dec. pertaining to Khata No. 24 situated at Village- Khajuri, Police Station Naubatpur, District Patna by private respondent no. 7 on



the instruction of respondent authority no. 5 C.O. Naubatpur, Patna ignoring the orders passed by the respondent no. 4, D.C.L.R., Danapur in Land Disputes Case No. 34 of 2013-14 and 40 of 2015-16. The said unauthorized construction has been made after breaking the wall of petitioner in his absence.

(b) To pass the suitable compensation at the tune of Rs. 2,00,000/- (Two Lacs) which has been lost by the petitioner due to breakage of his legal construction on his own land.

2. Learned counsel for the petitioners submits that original petitioner-Deo Pujan Singh had purchased 2 decimals of land appertaining to Khata no. 24, Plot No. 859 and 860, situated at village-Khajuri, Police Station-Naubatpur, District-Patna, from Narayan Sao by virtue of sale deed no. 8563 dated 19.08.2003, and was in peaceful possession thereof. It is further submitted that during the pendency of the present writ petition, the petitioner died, and his legal heirs-petitioners stepped into shoes of the original petitioner. Learned counsel further submits that respondent no.7 approached D.C.L.R, Danapur on two occasions and on both the occasions D.C.L.R, Danapur passed the order of measurement however, after the measurement, the said measurement has not been accepted by respondent no. 7 and he has encroached the land of the petitioner. He further



submits that while deciding land dispute case no. 34 of 2013-14 the D.C.L.R, Danapur directed the C.O, Naubatpur for doing the needful but the C.O, Naubatpur did not do anything and asked the parties for approaching the Civil Court, as stated in para 8 and 9 of the writ petition. Petitioners aggrieved by the action of the respondent no.7 has approached this Court.

3. Learned counsel on behalf of the State has filed counter affidavit and in para 11 of counter affidavit, it is stated that there is complex question of right and title involved between the concerned parties, which may be resolved by the competent Civil Court.

4. In the light of submission made on behalf of both parties, it is crystal clear that there is dispute between the parties over the land in question.

5. The Hon'ble Supreme Court in *catena* of judgments has held that regular suit is appropriate remedy for settlement of dispute relating to property rights between private persons. The remedy under Article 226 of the Constitution shall not be available except where there is violation of some statutory duty on the part of statutory authority is alleged. It is held that the High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law,



civil or criminal are available. The jurisdiction under Article 226 of the Constitution being special and extra-ordinary should not be exercised casually or lightly on mere asking by the litigant. In this context, the decision of the Hon'ble Supreme Court in the case of ***Sohan Lal Vs. Union of India & Anr.*** reported in ***AIR 1957 SC 529*** and in the case of Radhey Shyam & Anr. Vs. Chhabi Nath and Ors, reported in (2015) SCC 423 are quite relevant.

6. In the case of ***Sohan Lal (supra)***, Hon'ble Supreme Court has observed as under :

“We do not propose to enquire into the merits of the rival claims of title to the property in dispute set up by the appellant and Jagan Nath. If we were to do so, we would be entering into a field of investigation which is more appropriate for a Civil Court in a properly constituted suit to do rather than for a Court exercising the prerogative of issuing writs. These are questions of fact and law which are in dispute requiring determination before the respective claims of the parties to this appeal can be decided. Before the property in dispute can be restored to Jagan Nath it will be necessary to declare that he had title in that property and was entitled to recover possession of it. This would in effect amount to passing a decree in his favour. In the circumstances to be mentioned hereafter, it is a matter for serious consideration whether in proceedings under Art. 226 of



the Constitution such a declaration ought to be made and restoration of the property to Jagan Nath be ordered.”

7. In the case of ***Radhey Shyam (supra)***, Hon’ble Supreme Court in paragraphs 64 and 65 has observed as under :

“64. However, this Court unfortunately discerns that of late there is growing trend amongst several High Courts to entertain writ petition in cases of pure property disputes. Disputes relating to partition suits, matters relating to execution of a decree, in case of dispute between landlord and tenant and also in a case of money decree and in various other cases where disputed question of property are involved, writ courts are entertaining such disputes. In some cases the High Courts, in a routine manner, entertain petitions under Article 227 over such disputes and such petitions are treated as writ petitions.

65. We would like to make it clear that in view of the law referred to above in cases of property rights and in disputes between private individuals writ court should not interfere unless there is any infraction of statute or it can be shown that a private individual is acting in collusion with a statutory authority.”

8. In the light of the discussion made above, the disputed aspect with respect to the title over the land cannot be decided in writ jurisdiction and the appropriate remedy, in the facts and circumstances of the case, is before the Civil Court.



9. Accordingly, the present writ petition is disposed of with liberty to the petitioners to approach before the appropriate authority/forum.

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.08.2025
Transmission Date	NA

