

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.59 of 2013

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Rupesh Poddar Son Of Late Ram Sunder Poddar Resident Of Village-
Pelagarh, Sonaili, P.S.- Kadwa, District- Katihar

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Purnea Division, Purnea
3. The Collector, Katihar
4. The Additional Collector, Katihar
5. The Circle Officer, Kadwa, District- Katihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Akanksha Malviya, Advocate
	:	Mr. Gyanand Roy, Advocate
For the Respondent/s	:	Mr. S.D. Sanjay, Advocate
	:	Mr. Pankaj Kumar, SC-12
	:	Mr. Anuj Kumar, AC to SC-12

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

6 16-07-2025 Heard Ms. Akanksha Malviya, learned counsel for

the petitioner and Mr. Pankaj Kumar, learned SC-12 for the

Respondent-State.

2. The petitioner in the present writ application has
prayed for grant of following reliefs:-

*“(i) For quashing the order dated
18.05.2011/31.05.2011 passed by the
Commissioner, Purnea Division,
Purnea in Land Encroachment Appeal
No. 72/10-11 under the provisions of
section 11 (i) (ii) of the Bihar Public
Land Encroachment Act, 1956,
(hereinafter referred to as 'Land*



Encroachment Act'), as contained in Annexure-1, by which the appeal preferred by the petitioner against the order of Additional Collector, Katihar dated 12.02.2011 passed in Miscellaneous Land Encroachment Appeal No. 08/10-11 (Annexure-2) has been dismissed and the order of the Additional Collector, Katihar dated 12.02.2011 has been upheld.

(ii) For quashing the order dated 12.02.2011 passed by Additional Collector, Katihar in Miscellaneous Appeal No. 08/10-11, as contained in Annexure-2, by which the appeal preferred by the petitioner against the order of Circle Officer, Kadwa, Katihar dated 19.08.2010 passed in Land Encroachment Case No. 2/2010-11 has been dismissed and the order of the Circle Officer has been upheld.

(iii) For quashing the order dated 19.08.2010 passed by the Circle Officer, Kadwa in Land Encroachment Case No. 2/2010-11 in exercise of power conferred under section 6 of the Land Encroachment Act, as contained in Annexure-3, by which the show cause reply submitted by the petitioner in pursuance to the notice dated 14.07.2010 served upon the petitioner



under section 3 of the Land Encroachment Act has been held to be unsatisfactory and the petitioner was directed to vacate the land in question and it was directed further that the notice for vacation of the land be issued to the petitioner under the provision of section 6 of the Land Encroachment Act.

(iv) For quashing the Notice issued vide Memo No. 763, dated 20.08.2010 and the Notice dated 09.03.2011 issued by the Circle Officer, Kadwa under section 6 (2) of the Land Encroachment Act, as contained in Annexure-4 and 4/1 of the present writ application, by which the petitioner was directed to vacate the lands of Mauja-Pelagore (Pelagarh), Thana No. 494, khata No. 488, plot No. 438, area 0.03 decimals by 23.03.2011, failing which he will be forcefully evicted from the aforesaid land and in case of the disobedience of the said order, he will also be liable for payment of fine under the provision of section 188 of the Indian Penal Code.

(v) For holding that the impugned encroachment proceeding initiated against the petitioner under the provisions of the Land Encroachment Act vide Encroachment Case No.



2/2010-11 by the Circle Officer, Kadwa is not maintainable because there is serious dispute of title in respect of the land in question and the nature of the land has also been changed and it is not a public land and the same cannot be decided in a summary proceeding under the provisions of the Land Encroachment Act.

(vi) For restraining the respondents from evicting the petitioner from the land in question by use of force and/or taking any coercive action against the petitioner for not obeying the direction for vacating the land in question issued to the petitioner by the Circle Officer, Kadwa by his notices dated 20.08.2010 and 09.03.2011, as Annexure-4, 4/1 respectively. contained in

(vii) For any other relief or reliefs, for which the petitioner is found to be entitled in the facts and circumstances of this case.”

3. Learned counsel for the petitioner fairly submits that in a similar matter, a judgment has already been delivered on 20.06.2013 passed in CWJC No. 12891 of 2010 and analogous cases and the petitioners of those cases have been granted the liberty to approach a Civil Court of competent jurisdiction for redressal of their grievance. Learned counsel



appearing for the petitioner, therefore, submits that the present writ application may also be disposed of in light of the said judgment as the facts and issues involved are similar in nature.

4. On a careful perusal of the judgment dated 20.06.2013 passed in CWJC No. 12891 of 2010 and analogous cases, it is manifest that this Court finding no option left had to dismiss the writ petitions granting liberty to the petitioners to approach a Civil Court of competent jurisdiction within a fixed time frame and obtain an interim order of protection from the said competent Court on its own merit.

5. The present writ application involving the similar facts is, therefore, being disposed of granting liberty to the petitioner to approach a Civil Court of competent jurisdiction within two months from today and obtain an interim order of protection from the said competent Court on its own merit. The writ is not the answer for the petitioner.

6. Accordingly, the present writ application is disposed of with the aforesaid liberty granted.

(Alok Kumar Sinha, J)

Gaurav Sinha/-

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