

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6025 of 2014

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Indradeo Choudhary Son Of Lakhan Choudhary Resident Of Village - Lkhnu
Bigha, P.S. Asthawan, District - Nalanda

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary Panchayati Raj Govt. Of Bihar
3. The District Magistrate, Nalanda
4. The Director D.R.D.A., Nalanda
5. The District Officer, Nalanda
6. The Sub Divisional Officer, Nalanda
7. The District Programme Co - Ordinator, Nalanda
8. The Block Development Officer, Asthawan, Nalanda
9. The Circle Officer, Nalanda
10. The Programme Officer, Asthawan, Nalanda
11. The Panchayat Secretary Ugawan Block, Nalanda
12. The Junior Engineer, M A N R E G A Y O J A N A Asthawan, Nalanda

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 12996 of 2013

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Anil Kumar Singh Son Of Late Bhagbat Prasad Residence Of Village
Lakhunubigha, P.S. Asthawan, District- Nalanda

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary, Panchayati Raj, Govt. Of Bihar, Patna
3. The District Magistrate, Nalanda
4. The Director, D.R.D.A., Nalanda
5. The Land Acquisition Officer, Nalanda
6. The Sub-Divisional Officer, Nalanda
7. The Block Development Officer, Asthawan, Nalanda
8. The Circle Officer, Asthawan, Nalanda
9. The Panchayat Secretary, Ugama, Block, Nalanda

... .. Respondent/s

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Appearance :



(In Civil Writ Jurisdiction Case No. 6025 of 2014)

For the Petitioner/s : Mr. Bhola Prasad No.-1, Adv

For the Respondent/s : Mr. Ajay, GA12
Mr. Saurabh Kumar, Adv

(In Civil Writ Jurisdiction Case No. 12996 of 2013)

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Adv

For the Respondent/s : Mr. A. Ujjwal, Adv

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

8 26-06-2025

Re: CWJC No. 6025 of 2014.

Learned counsel for the petitioner is present and
learned counsel for the respondent-State is also present.

2. Learned counsel for the respondent-State submits
that unfortunately, today he could not bring the case file and
hence, prays for accommodation.

3. As prayed for, put up this case on 03.07.2025.

Re: CWJC No. 12996 of 2013.

4. Heard learned counsel for the petitioner, learned
counsel for the respondent-State and learned counsel appearing
for respondent no. 10.

5. In the present writ application, the petitioner has
prayed for the grant of following reliefs:

*(i) For a direction to the
respondent authority to stop the construction
either Kachi and Paki of Road over the
Raiyati Land of the petitioner situated at
Mauza Lakhnubigha Touzi No.-11285, land
description as below without following
process of land acquisition?.*



(ii) further for a direction to the respondent authority to remove the encroachment which have already been done from the Raiyati aforesaid land of the petitioner?

(iii) Further for a direction to the respondents authority to pay the compensation amount to the petitioner for unnecessary harassment and in the loss caused of encroachment over the land in question?

6. During the course of argument, learned counsel for the respondent-State brought attention of this Court to paragraph 7 of the supplementary counter affidavit filed by respondent no. 3 which reads as follows:

“That action taken report as mentioned in earlier supplementary counter affidavit are being reproduced, which are as follows:

(i) That the Circle Officer, Asthawan vide letter no. 1064, dated 16.08.2013 submitted a report alongwith a copy of measurement report and trace map to the D.C.L.R, Biharsharif.

(ii) That the measurement report revealed that 8.31 decimal of raiyati land of the petitioner is affected due to the construction of road. The scheme of



construction of road was executed by the Gram Panchayat, Ugawan under Asthawan Block.

(iii) That the District Magistrate, Nalanda having received the measurement report examined the same and after due consideration passed an order contained in memo no, 1780 dated 16.08.2013 with direction to restore the raiyati land of the petitioner to it's original position. It was also ordered to recover the amount spent in the construction of road after fixing responsibility on those who have constructed the road without making necessary enquiry.

(iv) That the claim of right and title by the petitioner over plot no. 387, Area 10 decimal on which Anganbari centre is being constructed is vehemently denied. It is humbly submitted that building of Anganbari centre is being constructed in village Lakhnubigha over Plot No. 387 under Khata No. 238 which is recorded as gairmazarua Aam in Survey record of right as mentioned in the report vide letter no. 1085, dated 22.08.2013 issued by the Circle Officer, Asthawan.

7. As per the aforesaid statement made by respondent no. 3, it appears that the respondent no. 3 after receiving the measurement report, examined the same and after due



consideration passed an order contained in Memo No. 1780 dated 16.08.2013 with a direction to restore the raiyati land of the petitioner to its original position. It was also ordered to recover the amounts spent in the construction of road after fixing responsibility on those who have constructed the road without making necessary enquiry. Respondent no. 3 has further stated that the claim of right and title by the petitioner over plot no. 387, area 10 decimal on which Anganwadi Centre is being constructed has been disputed by the respondent no. 3.

8. With the categoric statement that the building of Anganwadi Centre is being constructed in village Lakhnubigha over Plot no. 387 under Khata no. 238 which is recorded as Gairmajarua Aam in survey record of right as mentioned in the report vide letter no. 1085 dated 22.08.2013 (Annexure-R/D issued by the Circle Officer, Ashthawan). It further transpires from the aforesaid reply given by respondent no. 3 that the order contained in Memo No. 1780 dated 26.08.2013 was again taken into consideration by the respondent no. 3 and direction was given to Deputy Development Commissioner, Nalanda for compliance of the said order. Thereafter, the Deputy Development Commissioner, Nalanda vide letter no. 1040 dated 09.04.2025 is said to have submitted a status report in light of



the letter no. 66 dated 09.04.2025 issued by the Programme Officer, MNREGA, Asthawan. The said report, it is said, divulges that in the presence of the Circle Officer, Asthawan, Anchal Amin and local villagers, the land in question was got measured and as per demarcation made by the Anchal Amin, the soil work and brick soling made over the raiyati land were removed and the said raiyati land belonging to the petitioner was restored to its previous condition by the Programme Officer, MNREGA, Asthawan. It is further stated by the respondent no. 3 that as per the report, the petitioner was also requested by the Programme Officer, MNREGA, Asthawan to appear on 09.04.2025 at the land in question during removal of the alleged encroachment, but even after receiving the information, the petitioner did not appear during removal process. The respondent no. 3 in the supplementary counter affidavit further states and admits that although an order was passed for removal of encroachment contained in Memo No. 1780 dated 16.08.2013, the alleged encroachment could not be removed by the then Programme Officer, MNREGA, Asthawan, Shri Rajnish Sinha and for non-compliance of the order, he was asked to submit explanation vide letter no. 1039 dated 09.04.2025 issued by the Deputy Development Commissioner,



Nalanda. It is further stated that in this regard, for execution of the government scheme over the raiyati land, the erring the then Panchayat Rojgar Sevak, Smt. Sandhya Kumari, Panchayat-Ugawan, the then Mukhiya, Shri Indradeo Chaudhary, Panchayat-Ugawan have been noticed to submit show cause vide Memo. No. 1038 dated 09.04.2025 issued by the Deputy Development Commissioner, Nalanda. It is further stated in the supplementary counter affidavit filed by the respondent no. 3 that after receipt of their explanation, further action will be taken against erring persons in accordance with law. Further statement has been made by the respondent no. 3 that the entire dispute regarding Rasta has been resolved and hence, this writ application deserves to be dismissed as having become infructuous.

9. The reply/rejoinder was filed on behalf of the petitioner to the supplementary counter affidavit filed by the respondent no. 3 and in paragraph 5 and 6 of the said reply, it has been stated as follows:

“5. That in reply to the statements made in para no.7(i) (ii) and (iii) of the supplementary counter affidavit is concerned, It is submitted that encroachment by construction of road over the raiyati land of the petitioner is admitted and still the



encroachment is existing by means of debris is still lying on the Raiyati land of the petitioner only the breaks soiled road has been removed but the PCC road and Anganbari building is there and the debris (Malva) of road as concrete, breaks, soil and earths are left there, which would be evident from some recent photographs.

6. That in reply to the statements made in para No.7(iii), it is wrong to say that the Anganwari building has been constructed over Gairmajarua Aam Land for which no any revenue record has been brought on record but the petitioner has public document like non-encumbrance certificate issued by the Registrar, Patna and land possession certificate which has been issued by the revenue officer.”

10. Given the above circumstance whereby the respondent no. 3 has made specific statement that the dispute in question which was being agitated by the petitioner in the present writ application stands resolved whereas the petitioner disputing the said contention, this Court proposes to dispose of present writ application directing the respondent no. 3, the District Magistrate, Nalanda to ensure that there does not exist encroachment of any kind on the raiyati land belonging to the petitioner. If any encroachment is yet to be removed, the same



must be done within a period of four weeks from the date of production of a copy of this order by the petitioner, failing which this Court will take a serious view of the matter and may contemplate initiating proceedings against erring officials.

11. The respondent no. 3 is further directed to take appropriate action against the erring officials who have been named in paragraph 9 of the supplementary counter affidavit who were responsible for not removing the encroachment after the order was passed by respondent no. 3 contained in Memo no. 1780 dated 16.08.2013. It is further made clear that if there are any debris lying on the raiyati land of the petitioner, the same also be removed expeditiously within four weeks.

12. With the aforesaid observation/direction, this writ application is disposed of. All pending I.A. will also be deemed to have been disposed of.

(Alok Kumar Sinha, J)

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