

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9410 of 2025

1. Chanup Lal Raut Son of Brijmohan Raut,
2. Sambhu Raut, Son of Brijmohan Raut,
3. Manoj Raut, son of Anuplal Raut,
4. Arun Kumar, Son of Maheshwari Yadav,
All Petitioner No.1 to 4 are the resident of Village-Bhelai, P.S.-Dhoraiya,
District-Banka.
5. Pritam Kumar Singh, Son of Lal Mohan Singh, Resident of Village-
Mahammadpur, P.O.-Jagatpur, P.S.-Panjwara, District-Banka.

... .. Petitioner/s

Versus

1. The State of Bihar .
2. The Principal Secretary, Department of Panchayati Raj, Government of
Bihar, Patna.
3. The District Collector, Banka, P.S.-Banka, District-Banka.
4. The Deputy Development Commissioner, Banka, P.S.-Banka, District-
Banka.
5. The District Panchayat Raj Officer, Banka, P.S.-Banka, District-Banka.
6. The Deputy Collector Land Reforms, Banka, P.S.-Banka, District-Banka.
7. The Circle Officer, Dhoraiya, Banka.
8. The Block Development Officer, Dhoraiya, Banka.
9. The Block Panchayati Raj Officer, Dhoraiya, Banka.
10. The Panchayat Secretary, Gram Panchayat Bhelai, Block-Dhoraiya, District-
Banka.
11. Smt. Karuna Devi, Mukhiya Gram Panchayat Raj, Bhelai Block Dhoraiya,
P.O.-Sondiha, Babhangama, P.S.-Dhoraiya, District-Banka, Pin Code-
813123.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Bijendra Kumar Singh, Advocate Mr. Amrendra Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Shailesh Kumar, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

4 10-07-2025 Heard the parties.

2. At the outset, the learned counsel appearing for



respondents-State has objected to the maintainability of the present writ application by contending that for the same relief the petitioner had earlier approached this Court vide C.W.J.C. No. 6639 of 2025 which was dismissed on merit on 23.04.2025.

3. Learned counsel for the respondents-State, therefore, submits that when the issue raised in this writ application has already been dismissed on merit then the petitioner cannot maintain this writ application for re-agitating the same issue. The order dated 23.04.2025 passed in C.W.J.C. No. 6639 of 2025 which was earlier filed by the petitioners reads as follows:

“Heard Mr. Bijendra Kumar Singh, learned counsel for the petitioners and Mr. Vasant Vikas, learned counsel for the State.

2. In the present writ application, the petitioners have prayed for issuance of writ of mandamus for commanding the respondents, particularly, the respondent nos. 2 and 3 that the proposed Panchayat Sarkar Bhawan of Gram Panchayat Raj, Bhelay which comes under Block- Dhoraiya, District- Banka be constructed at the Central Place, Headquarter of Gram Panchayat located at the Administrative site of Village- Bhelay which bears the name of Panchayat either on government land available in the village pertaining to Khata No.67, Khesra No.633, Area- 6 Acre 3 decimal or at the private land centrally located pertaining to Khata No.66, Khesra



No.695, Area- 1 Acre 63 decimal, which as per the petitioners is presently owned and possessed by the petitioner nos. 1 to 3 and offered to execute a deed to donate the land to Government of Bihar for the same purpose.

3. The learned counsel appearing for the respondents-State submits that the petitioner no. 4, Arun Kumar, son of Maheshwari Yadav along with some other persons had earlier approached this Court for same relief vide CWJC No. 7622 of 2023 and the said writ application was disposed of on 11.12.2023 observing as follows:-

“4. Considering the submission made on behalf of the petitioner, the petitioner may file a detailed representation before the Collector, Banka who shall dispose of the representation of the petitioner considering the fact that as per the government requirement, Panchayat Sarkar Bhawan' is essentially required to be constructed at Headquarter village of the respective Panchayat.”

4. The learned counsel for the State further submits that in terms of the aforesaid order passed by this Court, the petitioner no. 4 had filed a representation which has been decided by the District Collector, Banka by a well reasoned and speaking order dated 25.02.2025 (Annexure-P/6) in which he has categorically held that the land being offered by the petitioner nos. 1 to 3 is a disputed land and thus, the District Collector has dismissed the representation.

5. From the perusal of the writ



application, it is manifest that the petitioners have come to this Court praying for the reliefs as quoted above without even challenging the order of the District Collector, Banka. The writ application is, therefore, misconceived and not maintainable.

6. In any case, in matters relating to construction of Panchayat Sarkar Bhawan, a Division Bench of this Court vide order dated 23.02.2024 passed in CWJC No. 3280 of 2024 has held and observed as follows:

“5. It is worth noting that so far the construction of Panchayat Sarkar Bhawan is concerned, the same is within the exclusive jurisdiction of the Gram Panchayat and a decision as to its situs lies entirely within the domain of Panchayat concerned and the State Government has exclusive jurisdiction to take a decision in this regard. So far the grievance of the petitioner is concerned, he has already represented before the concerned authorities, including the District Magistrate, Arwal and any direction of this Court would be uncalled for, in the matter.”

7. In view of the above finding given by the Division Bench of this Court, the present writ application does not merit any consideration and the same stands dismissed.”

4. From a careful reading of the aforesaid order, it is clear that all aspect of the matter relating to construction of



Panchayat Sarkar Bhawan of Gram Panchayat Raj, Bhelai, Block-Dhoraiya, District-Banka has already been considered by this Court and the case of the petitioners was dismissed on merit relying on the order dated 23.02.2024 passed by Division Bench of this Court in C.W.J.C. No. No.3280 of 2024. The question, therefore, arises that when all issues relating to construction of Panchayat Sarkar Bhawan of Gram Panchayat Raj, Bhelai, Block-Dhoraiya, District-Banka has already been considered and dismissed on merits then whether the same set of petitioners can be permitted to re-agitate the same issue in the present writ application, particularly when no liberty was granted to the petitioners to re-agitate the same issue on a new ground which could have been taken in the earlier writ application.

5. In the case of *Daryao & Ors. vs. The State of U.P. & Ors.* reported in *1962 SC Reports 574*, it has been clearly held that when a writ petition has been dismissed on merits then the dismissal of the writ petition will create a bar against filing of another writ for re-agitating the same issue.

6. In view of the aforesaid law laid down by the Hon'ble Supreme Court the present writ application for re-agitating the same issue which has already been considered and decided on merit in C.W.J.C. No. 6639 of 2025 cannot be held



to be maintainable.

7. Learned Senior Counsel appearing for the petitioner while responding to the above objection of the respondents-State submitted that in the earlier writ application the petitioners had not challenged the decision of the District Collector, Banka dated 25.02.2025 and therefore in the present writ application the petitioners are re-agitating the same issue by new challenging the said decision of the District Collector, Banka and therefore, the writ petition should be entertained. This argument is being noted only to be rejected for the reasons that the decision of the District Collector, Banka dated 25.02.2025 could have been challenged in the earlier writ petition bearing C.W.J.C. No. 6639 of 2025, which the petitioners did not choose to do. Being barred by constructive re-judicata the petitioners cannot be permitted to challenge the order of the District Collector, Banka in the present writ application. Further, while dismissing the earlier writ petition no liberty was granted to the writ petitioners to re-agitate the same issue by challenging the order of the District Collector, Banka dated 25.02.2025. In absence of any liberty having been granted to the petitioners, the petitioners in the present writ application cannot be permitted to assail the order of the District Collector, Banka.



8. The writ application filed by the petitioners is, therefore, totally misconceived and not maintainable in law. Consequently the writ petition is dismissed.

(Alok Kumar Sinha, J)

Prakash Narayan

U			
---	--	--	--

