

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8936 of 2020

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1. Shakteshwar Prasad, Son of Late Vishnu Prasad, R/o Mohalla- Gangasagar Rudalganj, P.O.-Lalbagh, P.S.-Laheriasarai, District-Darbhanga
 2. Ajit Kumar, Son of Late Tarkeshwar Prasad, R/o Mohalla- Gangasagar Rudalganj, P.O.-Lalbagh, P.S.-Laheriasarai, District-Darbhanga
 3. Sandeep Kumar Son of Late Kapileshwar Prasad, R/o Mohalla- Gangasagar Rudalganj, P.O.-Lalbagh, P.S.-Laheriasarai, District-Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms (Revenue) Department Government of Bihar, Patna
2. The District Magistrate, Darbhanga.
3. The Deputy Collector Land Reforms, Darbhanga.
4. The Circle Officer, Sadar, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bhubneshwar Prasad, Advocate Mr. Arvind Kumar Verma, Advocate
For the Respondent/s	:	Mr. Dhurjati Kr. Prasad, GP 14

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 17-01-2025 The petitioners have approached civil writ jurisdiction seeking following reliefs:

“(I) A Writ of mandamus may kindly be issue restraining the Respondent Authorities from acting illegally and arbitrarily by taken any Coercive step in the garb of removal of encroachment from the plots of Plot No. 1033 without taking steps strictly in accordance with law as envisaged under the provisions of the Bihar Public Land Encroachment Act, 1956.

(ii) A further Writ in the nature of mandamus restraining the Respondent



Authorities not take any Co-ercive steps in respect of the lands in dispute during the pendency of this Writ Application.

(iii) A further Writ in the nature of mandamus directing the Respondent Authorities to pay adequate monetary compensation if it be found that the constructions made upon the lands of the petitioners have illegally and un authorities demolished earlier prior to or after the filing of this Writ Application.

(iv) Issue any other appropriate Writ order or direction to which the petitioner may be found entitled.”

2. It is the case of the petitioners that they are the owners of the Khata No. 352, Plot No. 953, 954 and 955 along with other land bearing plot no. 957 and 958 of *Mouza- Haveh*, Darbhanga Kheraj Jalkar Bankar. The ancestors of the petitioners were the intermediary landlords of the said land. The said intermediaries had settled a portion of the said plot to different raiyats and used to collect rent from them. The said under raiyats became direct raiyats under the State after vesting of land. Further, case of the petitioners is that the petitioners exchanged part of Plot No. 954 with a portion of public road situated in Plot No. 1033 and the said part of public road in Plot No. 1033 was within their raiyati land that on 2nd July 2020 there was a public announcement that encroachments in Plot



No. 1033 would be demolished and accordingly a portion of boundary wall of the petitioners was demolished by the respondent authorities.

3. It is contended on behalf of the petitioners that the respondents had no right and authority to demolish the said portion of Plot No. 1033 as it was exchanged with a portion of Plot No. 954. The petitioners were not served with any notice before demolition and they are entitled to retain the said portion of Plot No. 1033. Therefore, the petitioners have prayed for appropriate direction by issuance of writ in the nature of mandamus.

4. The State respondents have filed a counter-affidavit denying all allegations made out by the petitioners in the writ petition. It is specifically stated by the respondents that petitioners' land was not encroached by the Government authorities, nor any portion of boundary wall was demolished as alleged. Plot No. 1033 is a public road and unauthorized structure on the public road was demolished by the local public and not by the administration.

5. The petitioners have filed a rejoinder to the counter-affidavit, they have also filed some pictures showing demolition work by employing JCB.



6. In course of argument, the learned Advocate for the petitioners has failed to produce any demolition case number in support of his contention that it was demolished by the State respondents. The root issue involved in the dispute between the parties is as to whether there was any exchange of land between Plot Nos. 954 and 1033. The petitioners have not produced any documents in support of exchange of land in respect of Plot Nos. 954 and 1033. Moreover, the issue relates to a disputed question of fact which the writ court cannot adjudicate. In support of such contention, the decision of the Hon'ble Supreme Court in *State of M.P. & Ors. v. M.V. Vyavasya & Co.*, reported in *(1997) 1 SCC 156* may be referred.

7. The dispute in hand is absolutely civil in nature and Civil Court can decide the issue relating to illegal encroachment, demolition and demarcation of land. This issue cannot be decided in the instant proceeding and accordingly, the instant writ petition is dismissed on contest.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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