

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9625 of 2024

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Niranjan Mishra Son of Late Baidyanath Mishra, Resident of Village-
Barhara, P.O.- Rampatti, P.S.- Rajnagar, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar Patna.
2. Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. Director, Panchayati Raj Department, Government of Bihar, Patna.
4. District Collector, District- Madhubani.
5. Gram Katchahry, Rampatti, District- Madhubani through its Sarpanch.
6. Sarpanch Gram Katchahry, Rampatti, District- Madhubani.
7. Shrimant Mishra Son of Late Jagannath Mishra, Resident of Village-
Barhara, P.O. Rampatti, P.S. Rajnagar, District Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binodanand Mishra, Advocate
For the Respondent/s : Mr.Government Pleader-19

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
CAV JUDGMENT

Date :08-04-2025

Heard Mr.Binodanand Mishra,learned counsel for the
petitioner, learned G.P.-19 for the State and Mr. Rakesh Kumar,
learned counsel for respondent No.7.

2. The petitioner has come before this Hon'ble Court for
quashing the order dated 08.03.2022 passed by Gram Katchahry
Rampatti Case No.01 of 2021 whereby on the application of the
respondent No.7, the Gram Katchahry decided that the respondent
No.7 will remain in possession of the land of the petitioner till the
petitioner does not remove the building from the land of
respondent No.7. The petitioner has also been imposed cost of



Rs.8500 by way of compensation for demolishing the pillar and the DPC. Learned counsel for the petitioner further prays to quash the order dated 16.03.2024 passed in First Appeal Case No.01 of 2024 by the Gram Katchahry, Rampatti, whereby the appeal filed by the petitioner against the order dated 08.03.2022 in Case No.01 of 2021 has been dismissed.

3. Learned counsel for the petitioner submits that the respondent No.7 had submitted an application on 20.09.2021 before the Sarpanch, Gram Katchahry, Rampati stating therein that the petitioner has taken back the land given in exchange. The respondent No.7 has prayed that he should be given the land earlier given to him and the cost of pillar and DPC amounting to Rs. 25000/-. In response to the application of respondent No.7, the petitioner filed his reply stating therein that there was no exchange of land between the respondent No.7 and the petitioner and petitioner has also stated that he has not taken possession of any land of respondent No.7 and the petitioner has also raised the objection of maintainability of the application of respondent No.7 before the Gram Katchahry and petitioner has raised objection stating therein that the respondent No.7 has raised the issue of right, title and interest over an immovable property and in view of Section 111 of the Bihar Panchayat Raj Act the Gram Katchahry



has no power to decide right, title and interest over the land in question and in view of the provisions stipulated under Section 111 of Bihar Panchayat Raj Act the application of respondent No.7 was not maintainable. Despite of objection raised by the petitioner a Bench of Gram Katchahry, Rampatti led by Sarpanch and some other Panches without hearing the petitioner and without looking to the response filed by the petitioner and even without considering the preliminary objection of maintainability of the petition filed by respondent No.7 decided the matter in favour of respondent No.7 by order dated 08.03.2022 holding that the respondent No.7 not remain in possession of the land of the petitioner till the petitioner vacates the land of respondent No.7 from his house. The Gram Katchahry also directed that the petitioner is liable for compensation of Rs. 8500/- to respondent No.7.

4. Learned counsel for the petitioner submits that order dated 08.03.2022 passed by the Gram Katchahry was totally without jurisdiction and in view of Section 111 of Bihar Panchayat Raj Act the application of respondent No.7 was not maintainable but the petitioner in terms of Section 112 of Bihar Panchayat Raj Act, 2006 has preferred Appeal before the Full Bench of the Gram Katchahry.



5. Learned counsel for the petitioner submits that the petitioner has challenged the legality/validity of order dated 08.03.2022 in CWJC No.10631 of 2022 on the ground that the order passed by the Gram Katchahry was illegal, arbitrary, totally without jurisdiction and unsustainable in the eye of law. The case of the petitioner was initially heard by the Division Bench of this Hon'ble Court and by order dated 20.12.2022 and Division Bench of this Hon'ble Court has been pleased to issue notice to respondent Nos.6 and 7 and apart from that the Division Bench of this Hon'ble Court has also granted interim stay of order dated 08.03.2022 passed by the Gram Katchahry Rampatti in Case No.01 of 2021 and finally the aforesaid writ application was disposed of by order dated 01.02.2024 directed the Full Bench of Gram Katchahry to pass a necessary and speaking order on the appeal which was pending before the Full Bench of the Gram Katchahry. In light of the aforesaid order, the First Appeal No.01 of 2024 has been registered under Section 112 of Bihar Panchayat Raj Act and the appeal has been finally heard and disposed of by order dated 16.03.2024 and the Full Bench of Gram Katchahry has rejected the appeal of the petitioner stating therein that no interference is required in the order passed by the Gram Katchahry.



6. Learned counsel for the petitioner submits that the Gram Katchahry has no jurisdiction to entertain the application filed by respondent No.7 before it. The civil jurisdiction of Bench of Gram Katchahry adjudicated dispute has been dealt with under Sections 110 and 111 of Bihar Gram Panchayat Act, 2006, the same has reproduced hereinbelow:-

“110. Exclusive civil jurisdiction of a bench of the Gram Katchahry.-- Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Acts, 1887 (**13 of 1887**), the Provincial Small Cause Courts Act, 1887 (**9 of 1887**) and the Code of Civil Procedure, 1908 (**5 of 1908**) and subject to the provisions of this Act a bench of the Gram Katchahry shall have jurisdiction to hear and determine the following classes of suits :-

(a) When the value of the suit does not exceed ten thousand rupees, namely-

(I) suits for money due on contracts;

(ii) suits for the recovery of movable property or the value of such property;

(iii) suits for the recovery of rent; and



(iv) suits for compensation for wrongfully taking or injuring movable property, or for damaged property caused by cattle trespass;

(b) All suits of partition except wherein complicated question of law or title is involved;

But where the Gram Katchahry is of the view that where in a suit for partition, complicated question of law or title is involved, Gram Katchahry shall transfer such suit to the court of competent jurisdiction:

Provided that the parties to a suit of the above description under clauses (a) and (b) may by a written agreement refer the suit to the bench for decision irrespective of the value of the suit and the bench shall, subject to such Rules as may be prescribed as to court-fees and other matters, have jurisdiction to hear and determine the said suit under this Act:”

“111. Certain suits not to be heard by a bench of the Gram Katchahry.- *Notwithstanding anything to the contrary contained in Section 110, no suit shall lie in any bench of the Gram Katchahry -*



- (a) on a balance of partnership account, or*
- (b) for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will, or*
- (c) by or against the Central or State Government or servants of such Government in their official capacity; or*
- (d) by or against minors or persons of unsound mind; or*
- (e) for the assessment, enhancement, reduction, abatement or apportionment of rent of immovable property; or*
- (f) of a mortgagee of immovable property for the enforcement of the mortgage by foreclosure or sale of the property for the redemption of the mortgage; or*
- (g) for determining the right, title and interest in immovable property,*
- (h) with regard to any matter in which proceeding is pending before a court of competent jurisdiction prior to coming into effect of this Act.*
- (i) against the Gram Panchayat Mukhiya or any other member of the Executive Committee, a Sarpanch or a Panch.”*



7. In view of the express provision contained in the Act, the Gram Katchahry exercised by detaining the application of respondent No.7 which raised the dispute relating to right, title and interest of the immovable property, the Gram Katchahry has no jurisdiction which was confirmed by it by the Act.

8. Learned counsel for the petitioner has relied upon the judgment in the case of **Shanti Devi Khobhari Mahto Rasalpur Vs. Bhola Ram Chandra Ray**, reported in **2020 (1)PLJR 429**, paragraph Nos. 3 and 5 of the said judgment, which read as follows:

“3. The petitioner had made an application before the Gram Katchahry with the allegation that the respondent had wrongly dispossessed her from the land in question which had given rise to Gram Katchahry Suit No. C-05/2008. The Gram Katchahry decreed the suit in favour of the petitioner on 19.10.2008. Subsequently, the petitioner is said to have filed Execution Case No. 02/2010 in the court of Munsif-10, Samastipur, for the execution of decree, granted by the Gram Panchayat.”

“5. The jurisdiction of Gram Katchahry conferred under the Act, is thus, limited to determine the suits



for money due on contracts, suit for recovery of movable property or the value of such property, suit for recovery of rent and suit for compensation for wrongly taking or injuring immovable property or for damaged property caused by cattle trespass; when the value of the suit does not exceed 10,000/- rupees. The Gram Katchahry has also jurisdiction to entertain that suits of partition, except wherein complicated question of law or title is involved.”

9. Learned counsel for the petitioner has further relied upon the judgment of Division Bench of this Hon’ble Court in the case of **Bhola Sah Vs. The State of Bihar & Ors.** reported in **2018 SCC Online 2030**, paragraph Nos.5 and 6 of the said judgment, which read as follows:

“5. Section 110 of the Panchayat Raj Act, 2006 (for brevity, the Act) does not contemplate such a jurisdiction in the Gram Kutchery. The power to remove encroachments, as alleged by private respondent No 4, does not vest in the Gram Kutchery exercising jurisdiction under Section 110 of the Act. Even otherwise, the scope of Section 110 of the Act does not include determination of complicated issues



of law and title, which has been raised by private respondent No 4 in the writ petition, filed before the Gram Kutchery.”

“6. The order dated 20.02.2009 passed by the Sarpanch, Mahui Gram Kutchery, Ram Nagar, West Champaran exercising jurisdiction under Section 110 of the Act is, therefore, grossly illegal and without jurisdiction and quashed. The order dated 09.05.2009 passed in the First Appeal as well as the order dated 30.05.2012 passed in the Second Appeal by Sub Judge II, Bagaha, West Champaran are, therefore, also unsustainable and quashed as they only affirm the order passed by the Gram Kutchery, which this Court has already held to be illegal and without jurisdiction.”

10. Learned counsel for the respondent No.7 has filed a counter affidavit and submits that the Gram Katchahry has passed the order in accordance with law and submits that the father of respondent No.7 and petitioner were full brother. In the year 1961 family were partitioned and the deed of partition was prepared in the year 1971 petitioner alongwith all co-parceners, local witnesses and Mukhiya were signature of said partition deed dated



05.09.1971. The respondent No.7 has filed a petition before the Sarpanch of Gram Katchahry, Rampati stating therein that the petitioner has constructed his house in the year 1985 wherein the construction extended over the 1.5 dhur and land of Plot No.3671 which was allotted to respondent No.7. In the year 1995 at the time of measurement of land, this fact came to light that the petitioner has made his house over 1.5 dhur of land allotted to respondent No.7. As per valuation of land, the petitioner has orally given 2.25 dhur of land of the allotted land in Plot No.3685/4584 in exchange of land of Plot No.3671 of respondent No.7. The respondent No.7 took loan from the Bank and open Flour Mill 1996 on Plot No.3684/ 4584 was in 2006 respondent No.7 closed the mill and settled in Patna. In July 2021 when the respondent No.7 came to village he saw that pillar and DPC which were constructed over Plot No.3684/4584 was demolished by respondent No.7 by JCB machine and the debris of the demolished pillar and DPC were thrown out in front of flour mill of respondent No.7 and after hearing the petitioner he has submitted his reply before the Gram Katchahry and the present case is not a matter relating to title and the Gram Katchahry has rightly passed the order in favour of respondent No.7. In the aforesaid proceeding before the Katchahry, witnesses were also examined and who have supported



the case of respondent No.7 on consideration all material Bench of Gram Katchahry allowed the case of respondent No.7 and thereafter the petitioner has filed an appeal but the same was dismissed vide order dated 16.03.2024.

11. Having heard the learned counsel for the parties, perused the material available on the record and the aforesaid judgments (Supra), it transpired that the order dated 08.03.2022 passed by the Gram Katchahry Rampati Case No.01 of 2021 and order dated 16.03.2024 passed in First Appeal Case No.01 of 2024 passed by the Full Bench of Gram Katchahry, Rampati, Madhubani exercising jurisdiction under Section 110 of Bihar Panchayat Raj Act, 2006 were illegal, without jurisdiction against statutory provisions under the Act and the same are unsustainable in the eye of law, both the aforesaid orders i.e. order dated 08.03.2022 (Annexure-P/3) and order dated 16.03.2024 (Annexure-P/7) are hereby set aside.

12. Accordingly, this writ application stands allowed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	AFR
CAV DATE	24.03.2025
Uploading Date	08.04.2025
Transmission Date	NA

