

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10401 of 2025

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Mosamat Khedni Devi widow of Late Ramawatar Chouhan, resident of Q. No. 415/B, railway New Colony, P.S. - Katihar Sahayak, District - Katihar, (Bihar) – 854105.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Old Secretariat, Patna.
2. The Additional Chief Secretary-cum- Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Old Secretariat, Patna
3. The District Collector -cum The District Magistrate, Katihar
4. The Additional Collector, Katihar
5. The Land Reforms Deputy Collector, Banka, District - Katihar
6. The Circle Officer, Block Katihar, District- Katihar
7. Kaushalya Devi @ Koshila Devi W/o. Baban Prasad resident of Mohalla- Lohiya Nagar, Barmasia, Ward No.12, P.S. Sahayak, District - Katihar
8. Rahul Kumar S/o. Late Munni Prasad resident of Mohalla- Lohiya Nagar, Barmasia, Ward No.12, P.S. Sahayak, District - Katihar
9. Bahadur Chauhan S/o. Late Saminathan Chaudhary resident of Railway New Colony, P.S. -Katihar, Sahayak, District - Katihar
10. Hakim Chauhan S/o. Late Saminathan Chaudhary resident of Railway New Colony, P.S. -Katihar, Sahayak, District - Katihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish, Adv.
For the Respondent/s : Mr. Narendra Kumar Singh (AC to GP-22)

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 07-07-2025 In the instant petition, the petitioner has prayed for following reliefs:-

“(a) For issuance of writ in the nature of certiorari for quashing the order dated 28.03.2025 passed by Hon’ble the Chairman, Bihar Land Tribunal, Patna in B.L.T. Case no. 363/2025 filed by the petitioner along with respondent no.9 and 10



where by and where under he has been pleased to dismiss the aforesaid B L T Case without assigning any reason.

(b) For further issuance of writ in the nature of mandamus directing /commanding the concern respondents to stop the illegal construction upon the land in question are being made by the respondent No. 7 and 8 by forcibly by taking advantage of dismissal of aforesaid B L T Case.

(c) The Writ petitioner further prays by this Hon'ble Court to stay the operation of impugned order dated 28.03.2025 passed in B L T Case No. 363/2025 till the final disposal of writ application.

(d) For any other appropriate writ, this order, orders, direction, directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case."

2. Learned counsel for the petitioner submits that land in question appertaining to R.S. Khata no.68, Khesra No.26 area 08 decimal and Khesra no.27, area 1.72 acres total area 1.80 decimal situated at Mauza-Durgapur, Thana No.104, Anchal-Katihar, District-Katihar has been transferred on two occasions i.e. one in 1959 in favour of the petitioner and another in 1975 in favour of respondent no.7. Learned counsel for the petitioner further submits that earlier sale deed was executed in favour of the petitioner and the petitioner has right, title and possession over the said land and subsequent execution of sale deed has no meaning at all by the same vendor.



3. Learned counsel for the State submits that there is dispute between the private party over the land in question and therefore, the present writ is not maintainable.

4. The Hon'ble Supreme Court in *catena* of judgments has held that regular suit is appropriate remedy for settlement of dispute relating to property rights between private persons. The remedy under Article 226 of the Constitution shall not be available except where there is violation of some statutory duty on the part of statutory authority is alleged. It is held that the High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law, civil or criminal are available. The jurisdiction under Article 226 of the Constitution being special and extra-ordinary should not be exercised casually or lightly on mere asking by the litigant. In this context, the decision of the Hon'ble Supreme Court in the case of ***Sohan Lal Vs. Union of India & Anr.*** reported in ***AIR 1957 SC 529*** and in the case of ***Radhey Shyam & Anr. Vs. Chhabi Nath and Ors***, reported in (2015) SCC 423 are quite relevant.

5. In the case of ***Sohan Lal (supra)***, Hon'ble Supreme Court has observed as under :

“We do not propose to enquire into the merits of the rival claims of title to the property in



dispute set up by the appellant and Jagan Nath. If we were to do so, we would be entering into a field of investigation which is more appropriate for a Civil Court in a properly constituted suit to do rather than for a Court exercising the prerogative of issuing writs. These are questions of fact and law which are in dispute requiring determination before the respective claims of the parties to this appeal can be decided. Before the property in dispute can be restored to Jagan Nath it will be necessary to declare that he had title in that property and was entitled to recover possession of it. This would in effect amount to passing a decree in his favour. In the circumstances to be mentioned hereafter, it is a matter for serious consideration whether in proceedings under Art. 226 of the Constitution such a declaration ought to be made and restoration of the property to Jagan Nath be ordered.”

6. In the case of **Radhey Shyam (supra)**, Hon’ble Supreme Court in paragraphs 64 and 65 has observed as under :

“64. However, this Court unfortunately discerns that of late there is growing trend amongst several High Courts to entertain writ petition in cases of pure property disputes. Disputes relating to partition suits, matters relating to execution of a decree, in case of dispute between landlord and tenant and also in a case of money decree and in various other cases where disputed question of property are involved, writ courts are entertaining such disputes. In some cases the High Courts, in a routine manner, entertain petitions under Article 227 over such disputes and such petitions are treated as writ petitions.

65. We would like to make it clear that in view



of the law referred to above in cases of property rights and in disputes between private individuals writ court should not interfere unless there is any infraction of statute or it can be shown that a private individual is acting in collusion with a statutory authority.”

7. In the light of the discussion made above, the disputed aspect with respect to the title over the land cannot be decided in writ jurisdiction and the appropriate remedy, in the facts and circumstances of the case, is before the Civil Court.

8. Accordingly, the present writ petition is disposed of with liberty to the petitioner to approach before the appropriate authority/forum.

(Alok Kumar Pandey, J)

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