

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21941 of 2014

- 1.1. Bachcha Prasad, Son of Late Jagdish Narayan @ Jagdish Narayan Prasad, Resident of Village - Rebirganj/Revelganj Bazar, P.S. - Revelganj, District-Saran, Chapra.
- 1.2. Mundeo Prasad, Son of Late Jagdish Narayan @ Jagdish Narayan Prasad, Resident of Village - Rebirganj/Revelganj Bazar, P.S. - Revelganj, District-Saran, Chapra.
2. Pannalal Prasad Son of Rameshwar Prasad, Resident of Village - MaharajGanj Purani Bazar, P.S. - Maharajganj, District - Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate Saran Chapra.
3. The Superintendent of Police Saran Chapra.
4. The Sub-Divisional Magistrate Sadar Chapra, Saran.
5. The Circle Officer-Ribirganj, Saran Chapra.
6. The Mukhiya Gram Panchayat Muhabbat Parsa, P.S. - Ribirganj, District - Saran Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Arbind Kumar, Advocate
For the Respondent/s	:	Mr.Anuradha Singh, S.C.-21
	:	Mr.Rakesh Prabhat, A.C. to S.C.-21

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 27-02-2025

Heard Mr. Arbind Kumar, learned counsel for the petitioners and Mr. Rakesh Prabhat, learned A.C. to S.C.-21 for the State.

2. This writ application has been filed for seeking a direction upon the respondent-authorities to remove the encroachment from the ancestor's raiyati land of the petitioners or in the alternative to pay the compensation to the petitioners for the



land encroached by the respondent-authorities for the purpose of constructing P.C.C.Road over the ancestral Raiyati land of the petitioners bearing Khata No.26, Plot No.196/197, Area 01 Bigha, 08 Katha, 05 Dhur situated at Village-Repura, P.S. and Anchal, District-Saran, Chapra.

3. Learned counsel for the petitioners submits that the land over the encroachment was made by the respondents have been a peaceful continuous possession of the petitioners' family and suddenly in the month of April, 2014, the respondent-authorities started encroachment over the petitioners' ancestral land for construction of P.C.C.Road over it without execution and the payment of the compensation amount to the petitioners.

4. Learned counsel for the State has filed a detailed counter affidavit stating therein that the authority concerned has come to knowledge about the claim of the petitioners, the Circle Officer, Rivilganj, Saran ordered the Halka Karamchari and Anchal Amin to submit their respective reports. Pursuant to the direction of the Circle Officer, the Halka Karamchari, after going through the revenue records, reported that the land in question is records in the name of the private persons, namely, Jagarnath Prasad and Badri Prasad and in Register-II Jamindari is running in the name of Jagarnath Prasad. The Anchal Amin has also



submitted his report after due measurement submitted his report with sketch map mentioning therein that there is existence of P.C.C.Road in Plot No.197 to connect the village-Repura to main Road measuring 220'x12'. The Anchal Amin further reported that the rest land in question is vacant on spot. After receiving the report from the aforesaid authority, the Circle Officer, Revilganj also called for a report from the Block Development Officer, Rivilganj about the status of said P.C.C.Road, who on the basis of the report of the concerned Panchayat Secretary sent a report to the Circle Officer, Revilganj vide letter No.1269 dated 21.11.2024 wherein it was specifically reported that in the year 2014 the said P.C.C. Road was constructed by the Mukhiya for welfare of the public of the locality over the existing soiling road which was use of public **at large since long**. During inspection made by the Panchayat Secretary, the people of the locality were also present who voluntarily signed on a memorandum wherein they have accepted that the P.C.C. Road was constructed by the Mukhiya in the year 2014 over the existing soiling road.

5. Learned counsel for the State submits that from the aforesaid facts, it transpired that while initial soiling road was constructed, neither the petitioners nor their ancestors raised any objection, in other words, it can be said that on that time, there



was consent of the petitioners or their ancestors but the petitioners have filed the writ application for removal of the road or to get compensation against the same.

6. Learned counsel for the State has relied upon the order dated **25.04.2019** passed in **CWJC No.8660 of 2019 (Jangli Pandit & Ors. Vs. The State of Bihar & Ors)** by a Coordinate Bench of this Hon'ble Court, which is quoted hereinbelow:

“There is no material on record, however, to suggest that when the road being laid in the year 2008-09, the petitioners had ever raised any objection. There is also no material on record to suggest that the petitioners raised any grievance against laying/construction of the road.

The fact that they maintained silence when the road was being constructed and did not raise any grievance for more than 10 years, indicates that they had agreed to construction/laying of the road. More than 10 years after the construction/laying of the village road under the said Scheme, no relief can be granted, as has been sought in the present writ application. This application is accordingly dismissed”.



7. In the present case also, it has transpired that while initially soiling road was constructed which was constructed since long and at the time of construction of the soiling road, neither the petitioners nor their ancestors raised any objection, in other words, it can be said that on that time, there was consent of the petitioners or their ancestors.

8. In view of the aforesaid, no relief can be granted, as has been sought in the present writ application. This application is accordingly dismissed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.03.2025
Transmission Date	NA

