

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7475 of 2016

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Harishankar Yadav Son of late Jainath Yadav, resident of villgae Mananpur,
Post office and Police station Gobindganj, District East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, East Champaran.
3. The Sub Divisional Officer, Areraj District East Champaran.
4. The Circle Officer, Areraj, District East Champaran.
5. Narad Tiwary, son of late Ram Dutt Tiwary, resident of village Nawada Tola Mananpur, Police Station Gobindganj, District East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Mahasweta Chatterjee, Sr. Advocate
For the Respondent/s : Mr.Dhurjati Kumar Prasad, GP-14

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 27-11-2025 Heard Ms. Mahasweta Chatterjee, learned Senior

Counsel for the petitioner and Mr. Dhurjati Kumar Prasad,

learned G.P.-14.

2. The present petition has been preferred for the
following relief/s:

*(i) for a direction upon the Respondent Nos.
2 to 4 not to take any further step for
demolishing the remaining portion of
ancestral residential house and Baithka of
the petitioner situated over Plot No. 1364
appertaining to Khata No. 104 of village*



Mananpur;

(ii) an appropriate writ may be issued commanding upon the Respondent Nos. 2 to 4 not to convert the two decimals area of Plot No. 1364 over residential house of the petitioner was which the part of ancestral standing and demolished by the Respondent No.4;

(iii) t an appropriate writ may be issued commanding upon the Respondent Nos. 3 and 4 to get the portion of ancestral residential house of the petitioner reconstructed immediately without any delay;

(iv) an appropriate writ may be issued commanding upon the respondent no. 2 to take necessary action against the Respondent No. 4, the Circle Officer, for causing/irreparable loss to the petitioner without following any procedure as contemplated under the law;

(v) any other relief/reliefs may he granted in



favour of the petitioner for which he is found entitled to in the facts and circumstances of the case.

3. The matter relates to plot no. 1364, khata no. 104, area 0.2 decimal under village Mananpur in the district of East Champaran

4. Pursuant to the petition preferred by respondent no.5, Narad Tiwary, a **Demarcation Case No. 44 of 2008-09** was initiated by the Circle Officer, Areraj, East Champaran and notice issued to the petitioner amongst other.

5. Pursuant thereto, the petitioner preferred objection, the matter went on and the order-sheet shows that on 19.02.2011, the Circle Officer, Areraj recorded that notices issued, there is no response, direction should be issued to remove the encroachment or the same shall be removed. The same order has been passed on 11.06.2011, 07.07.2011 and 23.07.2011.

6. In the meantime, Narad Tiwary moved before this Court in **C.W.J.C. No. 122 of 2016 (Narad Tiwary vs. the State of Bihar)**. The respondent, thereafter, rushed into the matter and removed the encroachment which followed the order dated **10.03.2016** by a coordinate bench in the said writ petition



recording that the encroachment stands removed and as such the writ petition was disposed of (Annexure-H to the petition).

7. Now, it was the turn of the petitioner to move before this Court alleging that no encroachment proceeding was initiated/taken to its logical conclusion and in a Demarcation Case, alleging them to be the encroachers, one fine morning, the alleged encroachment was removed.

8. In this case, counter affidavit has been filed on behalf of State respondents, according to which, the notices were issued whereafter, the encroachment was removed.

9. Learned counsel for the petitioner submits that no encroachment proceeding was ever initiated/any order passed. Even in the said demarcation case after issuance of notices, the direction of the Circle Officer, Areraj was to remove the encroachment and/or else face the music. There is nothing on record to show that the demarcation proceeding was taken to its logical conclusion, an order was passed whereafter, the direction was issued for encroachment. The respondents were in a hurry as **Narad Tiwary** had filed **C.W.J.C. No. 122 of 2016** and one fine morning, illegality was committed by them.

10. Though, in the voluminous writ petition/counter affidavit, number of documents have been filed, learned State



counsel is unable to provide the order-sheet to show that even in the demarcation case, any order was passed. It is to be noted that no encroachment proceeding was ever initiated.

11. For a piece of land, a petition was preferred by the respondent no.5 before the Patna High Court. The Circle Officer, Areraj came into action, instead of initiating encroachment proceeding, a demarcation case was initiated, notices issued (as per stand of the State). The demarcation case was never taken to its logical conclusion but direction was issued for removal of encroachment whereafter the alleged encroachment removed.

12. The coordinate bench taking into account all these facts on 09.11.2016, directed the respondents to produce the original records of Demarcation case no. 44 of 2008-09.

13. We are in the year 2025, in between, other coordinate benches also gave time on 20.06.2025 and 30.07.2025 but now the stand of the State is that the said file is missing and a 'Sanha' has been lodged.

14. This Court is convinced that without passing of any order, even in the said Demarcation case, the mighty respondents resorted to removal of alleged encroachment. There is nothing on record to contradict the



statement/submission of the learned counsel for the petitioner that the alleged notice which is part of the counter affidavit was never served.

15. In that background, the writ petition is disposed of with a cost of Rs.50,000/- imposed upon the respondents to be handed to the petitioner by 31.01.2026. Needless to add, the Collector, East Champaran is free to fix responsibility and realize the amount from the pockets of the erring respondents.

(Rajiv Roy, J)

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