

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11233 of 2025**

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Dileep Yadav Son of Moti Yadav, Resident of Rampur, A.P. Coloney, P.O. and  
P.S. Rampur, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through, Chief Secretary Govt. of Bihar, Patna.
2. The Divisional Commissioner Gaya.
3. The District Magistrate, Gaya.
4. The Additional Collector, Gaya.
5. The S.D.M. Sadar, Gaya.
6. The Circle Officer Rampur, Gaya.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Praveen Kumar  
For the Respondent/s : Mr. Standing Counsel (08)

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**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

2      29-07-2025                      1. Heard learned counsel for the petitioner and  
learned AC to SC-8.

2. The learned counsel appearing on behalf of the  
petitioner submits that the land in the instant writ application  
pertains to Khata No. 436(k) Khesra No. 5223, Area 85” x 22”  
Thana No. 09 at Mouza-Rampur, District-Gaya.

3. The learned counsel for the petitioner submits that  
the land in dispute originally belonged to the landlord and the  
landlord had settled the land in favour of Gopal Gope. It is  
submitted that at the time of vesting of *Zamindari*, the landlord  
also submitted his return with respect to the land in dispute in



the name of Gopal Gope (grandfather of the petitioner) as would manifest from Annexure- P/2 to the writ application. It is next submitted that an Encroachment Case No. 27 of 2021-22 was instituted for removing encroachment over the land in dispute before the Circle Officer, Sadar Gaya. The Circle Officer, Sadar Gaya passed an order dated 22.02.2022 (Annexure P/5) wherein it was recorded that this petitioner along with others have encroached the land in dispute including other lands as recorded in the aforesaid order and accordingly, it was directed that notice under *Prapatra-1* be issued to the encroachers and the case was directed to be listed on 08.03.2022. It is submitted that thereafter on 08.03.2022 the encroachment case was taken up when only one Dharmendra Yadav appeared and rest of the encroachers including the petitioner were not present, as such, it was directed to issue notice under Section 6(2) of the Bihar Public Land Encroachment Act, 1956 directing the encroachers to remove the encroachment, thereafter the case was taken up on 28.03.2022 when petitioner appeared and filed his objection bringing to the notice of the Circle Officer that during the revisional survey, the land was recorded in the name of *unabad Sarv Sadharan*, accordingly, an objection was filed under Bihar and Orissa Municipal Survey Act by filing Case No. 879 of



1990 in which order dated 26.07.1993 was passed in favour of the petitioner and thereafter no appeal was filed by the State against the order dated 26.07.1993 as such the order attained finality.

4. The learned counsel for the petitioner next submits that the Circle Officer, Sadar Gaya, without considering the facts of the case in its correct perspective, has directed for removal of the encroachment from the land in dispute by order dated 28.03.2022. It is submitted that the instant writ application has been filed seeking quashing of the order dated 22.02.2022 and 28.03.2022 passed by the Circle Officer, Sadar Gaya in Encroachment Case No. 27 of 2021-22 directing the petitioner to remove the encroachment from the land in dispute without appreciating the facts of the case in its correct perspective.

5. The learned counsel appearing on behalf of the State submits that petitioner has rushed to this Court without availing his alternative remedy against the order impugned in the instant writ application. The learned State counsel, thus, submits that since petitioner has not availed his alternative remedy, as such, the petitioner be directed to move before the appellate authority against the order impugned in the instant writ application, on which the learned counsel appearing on



behalf of the petitioner submits that petitioner will file an appeal against the order impugned in the instant writ application before the Collector, Gaya on or before 11.08.2025 with all the relevant documents relating to the land in dispute.

6. After hearing the learned counsel for the parties, **the writ application is disposed of** with a liberty to the petitioner to file an appeal against the order impugned in the instant writ application before the Collector, Gaya on or before 11.08.2025, in the event if any appeal is filed by the petitioner before the Collector, Gaya on or before 11.08.2025, in that event the Collector, Gaya shall consider and dispose of the same within a period of four months thereafter in accordance with law, after giving proper opportunity of hearing to all concerned including the petitioner.

7. It is made clear that if any issue of limitation arises in filing of the appeal, in that event the authority competent shall keep in mind that petitioner was pursuing his remedy before this Court since July, 2025.

8. It is further made clear that the order dated 22.02.2022 and 28.03.2022 in Encroachment Case No. 27 of 2021-22 passed by the Circle Officer, Sadar Gaya directing the petitioner to remove the encroachment over the land in dispute



in the instant writ application, **shall remain in abeyance till disposal of the appeal filed by the petitioner.**

9. It is further made clear that if no appeal is filed by the petitioner before the Collector, Gaya on or before 11.08.2025 against the order impugned in the instant writ application, in that event, the Collector, Gaya shall not be obliged to consider and dispose of the appeal within the time frame as recorded hereinabove and the order of abeyance shall also lose its effect.

**(Satyavrat Verma, J)**

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