

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3431 of 2021

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1. Bhagwat Ray S/o Late Narayan Dev Ray Resident of Village- Jhalari, P.S.- Gwalpara, District- Madhepura.
 2. Nand Kishore Ray S/o Late Narayan Dev Ray Resident of Village- Jhalari, P.S.- Gwalpara, District- Madhepura.
 3. Nilesh Bhardwaj S/o Late Chandra Kishore Ray Resident of Village- Jhalari, P.S.- Gwalpara, District- Madhepura.

... .. Petitioners

Versus

1. The State of Bihar.
2. Principal Secretary, Land Reforms and Revenue Department, Govt. of Bihar, Patna.
3. The Commissioner, Purnea Division, Purnea.
4. Collector, Madhepura.
5. Additional Collector, Madhepura Collectariat, District Revenue Section, Madhepura.
6. Deputy Collector, Land Revenue, Madhepura.
7. District Land Acquisition Officer, Madhepura.
8. The Sub Divisional Officer, Madhepura.
9. The Circle Officer, Gwalpara, Madhepura.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Ajit Ranjan Kumar, Adv.
For the Respondent/s : Mr. Majid Mahboob Khan, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

9 04-11-2025 This writ petition has been filed under Article 226 of the Constitution of India by the petitioners seeking the following reliefs:-

“1. That, this writ application is being filed for commanding 1. the respondents to vacate the land being Khata No. 96, Khesra No. 1123, Thana No. 208, Area-1.26 Acre situated at Mauza-Jhalari, Anchal-Gawalpara,



District-Madhepura or in alternative pay amisable compensation at the rate of present valuation of land, to the petitioners at an early date.

This, writ application is also being filed for holding that the impugned non consideration of the claim of the petitioners in the matter of vacating the land of the petitioner or in alternative non-payment of compensation amount, is illegal arbitrary, malafide and without any lawful justification.

This writ application is also being filed for holding that the land in question is the ancestral rayati land of the petitioners and without taking consents of the petitioners any construction like shelter home for flood victims, by the state government is an illegal act on the part of the respondent authorities.

The petitioners also prayers for other appropriate relief/reliefs as your lordship may deem fit and proper.”

2. Mr. Ajit Ranjan Kumar, learned counsel for the petitioners and Mr. Majid Mahboob Khan, learned AC to AAG-12 are present and they are heard.

3. The main issue raised by the petitioners in this writ



petition is that a flood shelter home has been constructed over the petitioner's raiyati land pertaining to Khata No. 96, Khesra No. 1123, Thana No. 208, area 1.26 acres situated at Mauza-Jhalari, Anchal-Gawalpara, District-Madhepura which is situated adjoining to the petitioners' other land that had been gifted by their forefathers, for public welfare.

4. On the other hand, learned counsel for the State-respondents has taken the pleas that the ancestors of the petitioners had gifted approximately 3 acres and 69.5 decimals of land for the purpose of school which is evident from the records of the old Jamabandi register as Jamabandi No. 22 is in the name of Madhyamik Vidyalaya, Jhalari in respect of which rent receipt for the year 1981-1982 was also issued, a copy of the same has been filed with the counter affidavit as Annexure-A. He further submits that the actual school premises exists on plot Nos. 1564 and 1565, pertaining to Khata No. 144 having a total area of 1 acre 44 decimals and other portion of the land which had also been gifted by the ancestors of the petitioners includes the land upon which the alleged flood shelter home has been constructed. He further submits that as the said donation was made about 55 years ago, so, it is not possible for the State-respondents to produce the copy of the gift deed though the



existence of the said gift deed is an admitted position and further in a meeting of Gram Sabha on 2.10.2024 which was organized on the direction of the Anchal Adhikari, a large number of villagers (349) discussed the issue and passed a resolution stating that the land in question had already been gifted by the ancestors of the petitioners in favour of the State Government and in this regard, a statement has been made in the counter affidavit.

5. After having considered the issue raised by the petitioners and having gone through the averments/statements made in the writ petition as well as in the counter affidavit, this Court finds that the issue with regard to the construction of the alleged shelter home over the land in question upon which the petitioners have based their claim is mainly on the basis of the same being their raiyaiti land. On the other hand the State-respondents have based their claim on the said land on the basis of a gift deed of which execution is not in dispute though, area of the same is in dispute and the issue raised by the petitioners requires evidences from both sides for which the best forum for the petitioners to redress their grievance is Civil Court. Hence, this writ petition is disposed of with giving liberty to the petitioners to raise their issue by way of a civil suit with regard



to their claim before the Civil Court. If the petitioners prefer a civil suit in the next eight weeks from today then the time spent by them in this writ petition shall be excluded while computing the necessary limitation period for filing the civil suit.

6. With the aforesaid direction, this writ petition stands disposed of.

(Shailendra Singh, J)

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