

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15687 of 2024

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Avinash S/o Surya Kant Jha Resident of village- Palasi, P.O.- Pategna,
Brahaman Tola, P.S.- Tarabari, Araria, District- Araria, Bihar- 854311.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Collector, Araria, Araria Collectorate,
District- Araria.
2. The Chief Conservator of Forests, Bihar, Patna.
3. The Conservator of Forests, Purnea, Forest Circle Purnea, at- Purnea.
4. The Divisional Forest Officer, Araria, Forest Division Araria, at - Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rabindra Nath Kanth, Advocate
For the Respondent/s : Mr. Standing Counsel (25)

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

6 15-07-2025 Heard learned counsel for the petitioner and learned
counsel for the Respondent-State.

2. The petitioner has prayed for issuance of appropriate writ for directing/restraining the Respondent Authorities from interfering with the right, title and possession of the petitioner's land over 14.7 decimal private land of *Khata* No. 364, Plot No. 1472 situated in *Mauja-Rahikpur, Thana* No. 197, *Thana-Araria, District-Araria* (Old District-*Purnea*), which they are purporting to do in exercise of power under Notification No. CF17025/67-2113-R dated 22.07.1967, issued under Section 29 of the Indian Forest Act, 1927 by which the respondents have declared the lands under *Mauja-Rakhipur,*



Thana No. 197, *Thana-Araria* in the then District of *Purnea* (presently *Araria*) as protected forest.

3. It is not in dispute that the petitioner is the title holder of the lands in question. The grievance of the petitioner is that the Authorities of the Forest Department including the District Magistrate, *Araria* in complete misconception of the powers vested in him under the notification dated 22.07.1967, a copy of which is annexed as Annexure-P/2 to the writ petition, is trying to interfere with the right, title and possession of the petitioner over the plots in question. Learned counsel appearing for the petitioner while referring to the notification as well as the provisions underlying in Section 29 of the Indian Forest Act, 1927 submits that no such right is vested in the respondents to interfere with the title and possession of the land holders without taking recourse to appropriate proceedings for acquiring land in accordance with law. Learned counsel has relied upon judgments of this Court reported in *AIR 1967 Patna 287*, *passed in judgment and order dated 13.01.2017 passed in CWJC No. 621 of 2016 and judgment dated 23.01.2019 passed in CWJC No. 1343 of 2019* in support of his case.

4. Learned counsel appearing for the Respondent-State while accepting the scope of the notification has submitted



that the petitioner is belatedly raising this issue after almost 53 years of the notification. She, however, submits that whatever action has been taken by the Forest Department, the same is in tune with the notification issued under Section 29 of the Indian Forest Act, 1927.

5. After having heard learned counsels for the parties and having perused the records, this Court finds that Section 29 of the Indian Forest Act, 1927 enables the State Government to notify any area as protected forest by following the due procedure provided under Section 29(3) of the Indian Forest Act, 1927 thereof. The proviso attached to the Section even while enabling the State Government to exercise such right yet protects the existing rights of the individuals. The notification issued under the provision takes notice of the legislative intent and save the existing right of the land holders which would obviously include the petitioner. The notification also admits that the required inquiry as mandated under Section 29(3) of the Indian Forest Act, 1927 has not been carried out explaining the exigency of the notification.

6. The representation filed by the petitioner before the District Magistrate-cum-Collector, Araria is enclosed at Annexure-P/12 and has not been disposed of as yet. The



grievance of the petitioner herein is that the Respondent Authorities of the Forest Department in complete misconception of the powers derived under the Notification have started to interfere with his rights, title and possession over the plots 14.7 decimal private land of *Khata* No. 364, Plot No. 1472 situated in *Mauja-Rahikpur, Thana* No. 197, *Thana-Araria, District-Araria* (Old District-*Purnea*).

7. This Court holds that in view of the statutory provision underlying Section 29 of the Indian Forest Act, 1927 read along with notification dated 22.07.1967 placed at Annexure-P/2, the Respondent Authorities of the Forest Department including the District Magistrate-cum-Collector, *Araria* has no such jurisdiction to interfere with the right, title and possession of the petitioner over the lands in question. The notification in question merely declares the area as protected forest and nothing beyond, in fact, the statutory provisions of Section 29 of the Indian Forest Act, 1927 by itself saves the right of the individuals whose plots fall within such declaration.

8. In the circumstances discussed and until such time that the State would take recourse to any of the remedy available to it, acquire the plots which is subject matter of the notification, they cannot interfere with the right, title and



possession of the land holders whose plots stand covered by the notification, for any such attempt would be contrary to the statutory provisions and in violation of the constitutional guarantee. The Respondent Authorities including the District Magistrate-cum-Collector, *Araria* are thus appropriately directed to refrain from interfering with the right, title and possession of the petitioner over the plots in question.

9. Let a writ of mandamus be issued accordingly. The writ petition is, accordingly, allowed to the aforesaid extent. All pending Interlocutory Applications if any, shall stand disposed of.

(Alok Kumar Sinha, J)

Gaurav Sinha/-

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