

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15804 of 2025

Ashok Yadav Son of Ramvilas Yadav, Resident of Village- Vabhangari, P.S.-
Rahika, District- Madhubani.

... .. Petitioner

Versus

1. The State of Bihar through the Addl. Chief Secretary, Department of Revenue and Land Reforms, Patna.
2. The Collector, Madhubani.
3. The Additional Collector, Madhubani.
4. The Sub-Divisional Officer, Sadar, Madhubani.
5. The Block Development Officer, Rahika, Madhubani.
6. The Circle Officer, Rahika, Madhubani.
7. Vijay Kumar Mishra, male, S/o Paltu Mishra, R/o Village- Kakraul, P.S. Rahika, Dist- Madhubani, Bihar- 847238.
8. Paltu Mishra, S/o Late Yadav Mishra, R/o Village- Kakraul, P.S. Rahika, Dist- Madhubani, Bihar- 847238.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Dinu Kumar, Advocate Mr. Saroj Kumar, Advocate
For the Intervenor	:	Mr. Ganpati Trivedi, Sr. Advocate Mr. Saurabh Suman, Advocate Mr. Ritik Shah, Advocate
For the State	:	Mr. Pratik Kumar Sinha, Advocate Smt. Nivedita Chaudhary, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA)

Date : 09-12-2025

Heard Mr. Dinu Kumar, learned counsel for the petitioner, Mr. Pratik Kumar Sinha, learned counsel appearing on behalf of the State and Mr. Ganpati Trivedi, learned counsel for the Intervenor-petitioners.



2. The present Public Interest Litigation (PIL) has been filed for issuance of a writ in the nature of Mandamus or any other appropriate, writ, order or direction commanding upon the Respondents to restrain the encroachers to construct house over the land of C.S. Khata No. 784, C.S. Plot No. 2710 and 5310/8817 recorded as Gairmajarua Aam Nadi (river) in C.S. Khatiyan.

3. Learned counsel for the petitioner submits that construction of the house over the land in question is causing obstruction to the natural flow of the river. Learned counsel for the petitioner submits that the land in question is recorded as Gairmajarua Aam Nadi (river) in the Cadestral Survey Khatiyan. One Vijay Mishra started constructing boundary wall surrounding the land and a house on the said land. The villagers objected and filed a representation on 01.02.2025 to the Collector, Madhubani, S.D.O., Madhubani and C.O., Rahika. Learned counsel for the petitioner submits that it is pertinent to mention here that the said Vijay Mishra filed a Case No. 5892/2023-24 for mutation of 21.8 decimals of land of Plot No. 2710, Khata No. 784 on the basis of sale deed dated 22.04.2022. The said Mutation case was rejected on 19.03.2025 on the ground that after considering the enquiry report of Revenue Karamchari and revenue record it transpired that the nature of land is Nadi (river) being the source of water.



The Additional Collector, Madhubani vide his order as contained in Memo No. 2194 dated 03.07.2025 held that the claim of the said Vijay Mishra is correct, thereafter Vijay Mishra again started construction of the house over the land in question. Learned counsel for the petitioner submits that the order passed by the Additional Collector, Madhubani is without taking notice of Order dated 19.03.2025 by which the Mutation Case of said Vijay Mishra was rejected.

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4. This interlocutory application has been filed by Vijay Kumar Mishra and Paltu Mishra in the aforesaid writ petition for adding them as party Respondents in the aforesaid writ petition.

5. For the reasons as mentioned in the Intervenor petition, the same is allowed. The Intervenor-petitioners be added as Respondent Nos. 7 and 8 in the present writ petition.

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6. Learned counsel for the Intervenor-respondents submits that the present writ petition has been filed for restraining the Respondent Nos. 7 & 8/intervenors from constructing house over the land in question. The land in question was purchased on the basis of the registered sale deed. Learned counsel for the Intervenor-respondents submits that from perusal of the writ



petition it appears that the writ petitioner has sought a direction against the respondents, restraining the Intervenor-respondent no. 7 from making any construction over the land in question. The aforesaid land in question has been recorded as Gair Mazarua Khas land in the Cadestral Survey records of right. In the year 1959, one Shri Krishnanand Jha had entered into an agreement for sale with Zonal Officer of Raj Darbhanga and Sectional Supervisor of Rahika Circle of portions of Plot No. 2710, 5966 and 5310/8817 admeasuring 02 Bigha 10 Kathas land situated in Village- Kakraul, Rahika, District- Madhubani, and paid Rs. 250/- as consideration money and also paid Rs. 07/- for purchase of Stamp for executing Kewala. The said Krishnanand Jha was put in possession but the authorities of Raj Darbhanga in spite of repeated requests did not execute the Kewala in favour of Krishnanand Jha. The said Krishnanand Jha filed Title Suit No. 103 of 1959 for specific performance of contract and also for confirming the possession over the said land and also from restraining the authorities of Raj Darbhanga from selling the said land to any other person. In the said suit, authorities of Raj Darbhanga as well as the State of Bihar were impleaded as party defendants. The said suit was contested on behalf of Raj Darbhanga and also the State of Bihar. The Title Suit No. 103 of 1959 was decreed by judgment and decree dated



11.09.1961 held that the lands in question were in Khas possession of the State of Raj Darbhanga and that they were legally competent to sell the same to the plaintiff (Krishnanand Jha). Learned counsel for the Intervenor- respondents further submits that it was further held that the contract for sale of the suit land with the plaintiff was valid and binding upon the Defendant 1st and 2nd Parties. The suit in question was not barred by the provisions of Bihar Land Reforms Act, and it was finally ordered that the suit be decreed on contest with cost. The Defendant 1st party was directed to execute the Kewala relating to the suit land and register the same within 60 days from the date of the decree failing which the Court will execute the Kewala and register the same on plaintiffs furnishing stamps and costs which would be recoverable from the Defendant 1st Party (authorities of Raj Darbhanga). Learned counsel for the Intervenor-respondents further submits that the Defendant 2nd Party (State of Bihar) was restrained permanently from the suit land or deal with it in any manner. The possession of the Plaintiff over the suit land was also confirmed. Learned counsel for the Intervenor-respondents further submits that it also transpires from the record that the appeal preferred by the State of Bihar i.e. Title Appeal No. 166 of 1961 was dismissed on 16.07.1963 by the learned Additional Sub-Judge-II and the



State of Bihar did not challenge the same before any Superior Court/competent Court.

7. It appears that the Defendant 1st Party (authorities of Raj Darbhanga) failed to execute the sale deed. The learned Munsif, Madhubani executed the sale deed on 04.04.1964 with respect to the said plots of land i.e. 2710 (part), 5966 and 5310/8817, all appertaining to Khata No. 784 of Mauza Kakraul total measuring 02 Bighas 10 Kathas and the same was registered in the office of Sub Registrar, Madhubani. Learned counsel for the Intervenor-respondents further submits that upon the sale deed having been registered in the name of the said Krishnanand Jha, the learned DCLR got the rent fixed of those lands in Rent Fixation Case No. 06 of 1963-64 and Jamabandi No. 2587 was created in his name and the name of Krishnanand Jha, was entered in Register-II of the State of Bihar. The Intervenor-respondent no. 8 purchased a land of Jamabandi No. 2587 having an area measuring 05 Kathas i.e. 21.8 decimals of land of Plot No. 5310/8817 under Khata No. 784 situated in Mauza Kakraul, P.S. and Anchal- Rahika from Devanand Jha Son of Late Krishnanand Jha on the basis of registered sale deed dated 22.04.2022 and came in possession thereof on the basis of the said registered sale deed. Learned counsel for the Intervenor-respondents submits that the



8. Learned counsel for the Intervenor-respondents relied upon a three-Judge Bench judgment in the case of **Radhey Shyam and Another Vs. Chhabi Nath and Others** and its analogous case, reported in **(2015) 5 Supreme Court Cases 423**, referring paragraph nos. 27 and 29.1 of the aforesaid judgment which is quoted hereinbelow:

“27. Thus, we are of the view that judicial orders of civil courts are not amenable to a writ of certiorari under Article 226. We are also in agreement with the view of the referring Bench that the writ of mandamus does not lie against a private person not discharging any public duty. Scope of Article 227 is different from Article 226.

29.1. Judicial orders of the civil court are not amenable to writ jurisdiction under Article 226 of the Constitution.”

9. Learned counsel for the Intervenor-respondents further relied upon a judgment in the case of **Shri Digant Vs. P.D.T. Trading Co. and Others**, reported in **2025 SCC OnLine SC 2524**, referring paragraph no. 22 of the aforesaid judgment which is quoted hereinbelow :-

“22. The scope of High Court's jurisdiction under Articles 226/227 fell for consideration before a three-



Judge Bench of this Court in Radhey Shyam v. Chhabi Nath This Court held that judicial orders of civil courts are not amenable to a writ of certiorari under Article 226, though they may be questioned in the supervisory jurisdiction of the High Court under Article 227 of the Constitution. The power under Article 227 is intended to be used sparingly and only in appropriate cases for the purpose of keeping the subordinate courts and tribunals within the bounds of their authority and not for correcting mere errors. The power may be exercised in cases occasioning grave injustice or failure of justice such as when (i) the court or tribunal has assumed a jurisdiction which it does not have, (ii) has failed to exercise a jurisdiction which it does have, such failure occasioning a failure of justice, and (iii) the jurisdiction though available is being exercised in a manner which tantamounts to overstepping the limits of jurisdiction.”

10. A counter affidavit has been filed on behalf of Respondent Nos. 2 to 6. Learned counsel for the State submits that wrong and distorted version of facts for purpose of writ petition have been submitted. The land in question of C.S. Khata



No. 784, C.S. Plot No. 2710 and 5310/8817 situated in Village Kapileshwar Asthan is recorded as Gairmazarua Khas Nadi in the C.S. Record of Right and is entirely wrong to say that these are recorded as Garmazarua Aam in the C.S. Record of Right. The Revenue Clerk, who submitted his report dated 19.11.2025 informed the authority that the land in question situated in Mauza-Kakraul, Thana No.8, appertaining to C.S. Khata No.784, C.S. Plot No.2710, Area 11 Bigha 6 Katha 16 Dhur, C.S. Plot No. 5966, Area 01 Bigha 12 Katha 06 Dhurs, C.S. Plot No.5966, Area 01 Bigha 12 Katha 6 Dhur and C.S. Plot No.5310/8817 Area 06 Katha 08 Dhur is recorded as Gairmazarua Khas Nadi in the C.S. Record of Right and the corresponding R.S. Khata No. 1598 R.S. Plot No. 8876 Area 76 Decimal and R.S. Plot No. 10347/14903 Area 68 Decimal is recorded as Dhanhar in the name of Madnanand Jha and his brothers in the R.S. Record of Right. Jamabandi No. 2587 for an Area 02 Bigha 10 Katha is running with respect to the land in question in the name of Krishnanand Jha son of Late Gunanand Jha. The revenue clerk has further reported that aforesaid Jamabandi has been created vide Rent Fixation Case No. 06/1963-64 on the basis of sale deed executed by the Court by virtue of Judgment and Decree passed in Title Suit No. 103/1959 by learned Munsif First, Madhubani. On local inspection it was found that



brick built house with tin shed is in existence over portions of the land in question.

11. Having heard the counsel for the parties, this Court has come to the conclusion that the present writ petition has been filed only to harass the Intervenor-respondents in the name of Public Interest Litigation. In fact, the same is a private personal interest litigation and the Intervenor-respondents has purchased the land in question from the land owner who has obtained the land in question on the basis of Judgment and decree in Title Suit No. 103 of 1959.

12. There is no merit in the present writ petition. Accordingly, the writ petition stands dismissed.

13. Pending application(s), if any, shall stand disposed of.

(Sudhir Singh, ACJ)

(Rajesh Kumar Verma, J)

Ibrar//-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.12.2025
Transmission Date	N.A.

