

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19408 of 2024

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Arpana Kumari wife of Shyam Kishore, resident of Mohalla-Raja Bazar,
Jehanabad, P.S. Jehanabad (Town), District-Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Revenue and Land Reforms, Bihar, Patna.
2. The Divisional Commissioner, Magadh Pramandal, Gaya.
3. The Chairman, Bihar Land Tribunal, Patna.
4. The Collector, Jehanabad, District Jehanabad.
5. The Land Reforms Deputy Collector, Jehanabad.
6. The Circle Officer, Jehanabad, District-Jehanabad.
7. The Station House Officer Jehanabad (Town), District-Jehanabad.
8. Radhe Shyam Sharma, son of Late Anhach Singh, resident of Village Rajkharsa, P S Mehanida, District Arwal, at present resident of Mohalla-Raja Bazar, Jehanabad, P.S. Town Jehanabad, District-Jehanabad.
9. Dharmendra Kumar, son of Late Nand Singh, resident of Village Daulatpur, Adalu Chak, P S Jehanabad, District-Jehanabad.
10. Dhirendra Kumar, son of Late Nand Singh, resident of Village Daulatpur, Adalu Chak, P S Jehanabad, District-Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Bibhuti Narayan, Advocate Mr.Amarnath Singh
For the Respondent/s	:	Ms. Babita Kumari, AC to SC-01

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 09-01-2025

Heard the parties.

2. In the instant petition, petitioner has prayed for
the following relief(s):-

*(i) For issuance of
writ in the nature of certiorari for
quashing the order dated 23.07.2024*



passed by the learned Chairman, Bihar Land Tribunal, Patna in BLT Case No. 69 of 2024 (Anx-1) whereby and where under the order dated 04.01.2024 passed by the learned Divisional Commissioner, Magadh Pramandal, Gaya in Land Dispute Appeal No. 108 of 2023 has been set aside.

(ii) For grant of stay of the order impugned till the disposal of the writ petition.

(iii) For issuance of writ in the nature of Mandamus on such other writ or direction for commanding the respondent no. 8 will not disturb in using the 5 feet wide Rasta from North of the Pyan.

(iv) For direction to the Circle Officer, Sadar Jehanabad (Respondent No. 6) after measuring the land in question and the same must demolish any structure or grabbed encroached land with free access to every one.

(v) For any other relief/ reliefs to the petitioner as this Hon'ble Court may deem fit and proper in view of the facts and circumstances of the case.



3. On 07.01.2025, following order was passed:-

The petitioner has purchased 3.125 decimal of land from same Vendor (Respondent no.9 and 10) by registered sale deed and the Vendor has mentioned the boundary of land in the sale deed as North Radhe Shyam Sharma and 5 feet wide way from North at the Pyane. The petitioner is claiming right to use 5 feet wide land left by the Respondent No.8 to be used as Public way, but respondent no.8 has closed the road (5 feet wide) by placing a boundary on it. The petitioner has approached this Court by virtue of order passed by BLT.

2. Learned counsel for the State submits that disputed aspect cannot be decided in writ jurisdiction.

3. From the perusal of the order of BLT, it clarified that there is dispute with regard to the pavement over the land in question and it is disputed aspect and the same cannot be decided in the writ jurisdiction. In similar matter the Hon'ble Supreme



Court has already stated that disputed aspect cannot be decided in the writ jurisdiction and this kind of disputed matter be placed before the Civil Suit and BLT has also observed the same thing in the order.

*4. The decisions of Hon'ble Supreme Court in the case of **Sohan Lal Vs. Union of India & Anr.** reported in **AIR 1957 SC 529** and in the case of **Radhey Shyam & Anr. Vs. Chhabi Nath and Ors.** reported in **(2015) SCC 423** are quite relevant.*

*5. In the case of **Sohan Lal (supra)**, Hon'ble Supreme Court has observed as under :*

“We do not propose to enquire into the merits of the rival claims of title to the property in dispute set up by the appellant and Jagan Nath. If we were to do so, we would be entering into a field of investigation which is more appropriate for a Civil Court in a properly constituted suit to do rather than for a Court exercising the prerogative of issuing writs. These are questions of fact and law which are in dispute requiring determination before the respective claims of the parties to this appeal



can be decided. Before the property in dispute can be restored to Jagan Nath it will be necessary to declare that he had title in that property and was entitled to recover possession of it. This would in effect amount to passing a decree in his favour. In the circumstances to be mentioned hereafter, it is a matter for serious consideration whether in proceedings under Art. 226 of the Constitution such a declaration ought to be made and restoration of the property to Jagan Nath be ordered.”

*6. In the case of **Radhey Shyam (supra)**, Hon'ble Supreme Court in paragraphs 64 and 65 has observed as under :*

“64. However, this Court unfortunately discerns that of late there is growing trend amongst several High Courts to entertain writ petition in cases of pure property disputes. Disputes relating to partition suits, matters relating to execution of a decree, in case of dispute between landlord and tenant and also in a case of money decree and in various other cases where disputed question of property are



involved, writ courts are entertaining such disputes. In some cases the High Courts, in a routine manner, entertain petitions under Article 227 over such disputes and such petitions are treated as writ petitions.

65. We would like to make it clear that in view of the law referred to above in cases of property rights and in disputes between private individuals writ court should not interfere unless there is any infraction of statute or it can be shown that a private individual is acting in collusion with a statutory authority.”

7. If the learned counsel is not cooperating the Court tomorrow i.e. on 08.01.2025, the matter would be decided on the basis of material available on record.

8. List this matter on 08.01.2025.

4. Today, learned counsel for the petitioner orally submits that petitioner has filed Title Suit No. 83/2024 in the court of learned Sub Judge, Jehanabad.

5. In light of the discussions made above, it is crystal clear that the present matter is with regard to the pavement over



the land in question which is disputed aspect and same cannot be decided in writ jurisdiction.

6. In view of the earlier order dated 07.01.2025 and arguments advanced on behalf of the parties, the instant writ petition stands disposed of as not maintainable.

(Alok Kumar Pandey, J)

alok/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.01.2025.
Transmission Date	N/A

