

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1145 of 2026

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Abul Kalam Son of Late Md. Yusuf, Resident of Village- Thakurichak, P.S-
Barauni, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar Through the District Magistrate, District- Begusarai.
2. The Sub Divisional Officer, District- Barauni, District- Begusarai.
3. The Block Development Officer, Block- Barauni, District- Begusarai.
4. The Circle Officer, Barauni, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shaishav Kumar, Advocate

For the Respondent/s : AC to Government Pleader (02)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 29-01-2026

Heard Mr. Shaishav Kumar, learned counsel
appearing on behalf of the petitioner and learned AC to
Government Pleader (02) for the State.

2. The petitioner in paragraph no. 1 of the present writ
petition has sought *inter alia* the following relief(s), which is
reproduced hereinafter:-

*“That in the present writ application the
petitioner prays for following reliefs: -*

*I) For issuance of an appropriate direction,
order, or writ in the nature of mandamus, commanding
the respondents to dispose of the representation dated
30.12.2025, as contained in Annexure-P 3 of this writ
application, and further directing the respondents not to
interfere with or disturb the petitioner's possession over
his house, shop, and land situated at Mauza Thakurchak,
Thana No. 480, Khata Nos 51 and 56, including multiple
plots (Khesra Nos. 164 and 166), District Begusarai,
until due verification of the petitioner's ancestral
property documents is done by them.*



II) For any other relief/reliefs to which the petitioner can be found entitled to, in the facts and circumstances of the case.”

3. The brief facts of the case are that the petitioner claims ownership and possession over a house, ration shop and land situated at Mauza Thakurchak, Thana No. 480, Khata Nos. 51 and 56, including Plot (Khesra) Nos. 164 and 166, District Begusarai, supported by valid title documents. It is alleged that certain local residents attempted to encroach upon the petitioner's land on 20.12.2025 by placing construction materials thereon and, upon objection, threatened the petitioner with demolition of his house and ration shop under the guise of an anti-encroachment drive. Finding no alternative remedy, the petitioner submitted an application dated 24.12.2025 before the Circle Officer, Barauni, seeking measurement of the land and removal of the alleged encroachment. It is the petitioner's case that without verifying the relevant revenue records and title documents, the Circle Officer opined that the land in question was Gair Majarua Khas land over which the petitioner has build his house and shop. The petitioner has relied upon a subsisting order of a temporary injunction dated 30.08.2019, passed in Title Suit No. 46 of 1998, wherein, the State of Bihar is a defendant. However, the Circle Officer allegedly proceeded with



proposed demolition actions notwithstanding the said injunction. Thereafter, the petitioner submitted a representation dated 30.12.2025 before Respondent Nos. 1 to 3 seeking an opportunity to produce his original documents, but no action was taken. It is alleged that demolition activities have commenced in the locality without issuance of notice to the petitioner, giving rise to a reasonable apprehension of imminent demolition of his house and ration shop. Aggrieved by the inaction of the authorities and the alleged violation of principles of natural justice, the petitioner has approached this Court.

4. Learned counsel appearing on behalf of petitioner seeks to file a fresh representation before the District Magistrate-cum-Collector, Begusarai for the reliefs as prayed for in the present writ petition.

5. *Per contra*, learned counsel appearing on behalf of the State submitted that the petitioner on the basis of an order dated 30.08.2019 passed in Title Suit no. 46 of 1998, by which Temporary Injunction has been granted to the plaintiff. The petitioner by availing remedy before the competent civil court has filed the present writ petition which is not maintainable in view of remedy availed before the learned District Court.

6. Heard the parties.



7. It is well settled principle of law that High Courts should not exercise its writ jurisdiction under Article 226 of the Constitution of India if an effective and efficacious remedy is available. Taking into the circumstances of the present case where fundamental/constitutional right of a citizen is infringed, this Court must not fail to exercise its power under Article 226 of the Constitution of India.

8. The law in this regard has been laid down by the Apex Court in the Case of ***M/s Magadh Sugar & Energy Ltd. Versus The State of Bihar & Ors.*** reported in ***LL 2021 SC 495***, paragraphs no. 19 and 28 would be relevant in this regard, which is as under:-

“ 19. While a High Court would normally not exercise its writ jurisdiction under Article 226 of the Constitution if an effective and efficacious alternate remedy is available, the existence of an alternate remedy does not by itself bar the High Court from exercising its jurisdiction in certain contingencies. This principle has been crystallized by this Court in *Whirpool Corporation v. Registrar of Trademarks, Mumbai*¹⁹ and *Harbanslal Sahni v. Indian Oil Corporation Ltd*²⁰. Recently, in *Radha Krishan Industries v. State of Himachal Pradesh & Ors*²¹ a two judge Bench of this Court of which one of us was a part of (Justice DY Chandrachud) has summarized the principles governing the exercise of writ jurisdiction by the High Court in the presence of an alternate remedy. This Court has observed:

“28. The principles of law which emerge are that: (i) The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well; (ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person; (iii) Exceptions to the rule of alternate remedy arise where (a) the writ petition



has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged; (iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law; (v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and (vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.” (emphasis supplied)

9. The Circle Officer is directed to appear before the District Magistrate – cum – Collector on 16.02.2026 along with the petitioner, so that, both of them can present their case before the District Magistrate – cum – Collector. The District Magistrate – cum – Collector upon verification of the record and giving opportunity to the parties must pass a reasoned order by directing the concerned authority to take action in accordance with law.

10. In case the District Magistrate – cum – Collector upon examination of records finds that the Circle Officer has intentionally harassed the petitioner and fundamental right has been violated, the action is required to be taken in accordance with law.



11. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.02.2026
Transmission Date	NA

