IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4534 of 2022

CNR No. BRHC010202612022

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Ram Naresh Yadav @ Ram Naresh Prasad Son of Late Gopal Yadav Resident of Village - Chiraiyatand, P.S. - Rampur, District- Gaya.

... ... Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Collector - cum District Magistrate, Gaya.
3. The Circle Officer, Town Gaya, District- Gaya.
4. Vishal Kumar S/o Late Suresh Yadav resident of Mohalla-Shashtri Nagar Road No.11, P.S. Rampur, District-Gaya.
5. Sudhir Kumar S/o Shwardhari Sharma resident of Mohalla-Shashtri Nagar Road No.11, P.S. Rampur, District-Gaya.
6. Anil Kumar S/o Late Munark Singh resident of Mohalla-Shashtri Nagar Road No.11, P.S. Rampur, District-Gaya.
7. Jay Prakash Narayan S/o Late Rajnath Mahto resident of Mohalla-Shashtri Nagar Road No.11, P.S. Rampur, District-Gaya

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Advocate
	:	Ms. Ritika Rani, Advocate
	:	Mr. Vardaan Mangalam, Advocate
	:	Ms. Shambhavi, Advocate
	:	Mr. Tejaswi Anand, Advocate
For the State	:	Mr. Rajesh Kumar, GP-26
	:	Mr. Jay Prakash Sharma, AC to GP-26

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

4 29-10-2026 **I.A. No. 2 of 2025**

Heard the parties.

2. The aforesaid Interlocutory Application has been preferred by the applicants submitting that they are feeling the heat of the encroachment made by the petitioner and as such be allowed to intervene in the matter.

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3. There is no objection from the learned counsel for the petitioner.

4. Accordingly, I.A. No. 2 of 2025 is allowed and the proposed intervener respondents be incorporated as respondents in the writ petition.

CWJC No. 4534 of 2022

5. The present petition has been preferred for the grant of following relief(s):

> *"(i) for quashing the notice issued under section 3 of Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as Act, 1956) in Encroachment Case No. 15/2020-21 in Prapatra-I on 08.03.2021 as contained in Annexure-5 and 29.01.2022 as contained in Annexure-7 with respect to Khata No. 193, Plot No. 779, Area 21' O" length and 44'3" height boundary wall of earth under Thana No. 180, Khata No. 193 situated in Mauza Chandauti, District- Gaya.*
>
> *(ii) for declaring encroachment case no. 15/2020-21 over the private land which is not in the nature of public land is unwarranted,*

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illegal, void, ab initio and bad in law.

(iii) for commanding the Circle Officer, Town Gaya to conclude the proceeding of Encroachment Case No. 15/2020-21 in which the petitioner has filed objection upon the notice issued in Encroachment case No. 15/2020-21 on 12.02.2022 at present earlier also 27.03.2021 as contained in Annexure-8.

(iv) for commanding the Circle Officer, Town Gaya to not take any coercive action in demolishing the boundary land of the petitioner existing over Khata No. 1, Plot No. 781, Area 3.39 Acres in which the petitioner have share of 35 Decimal situated in Anchal Mauza Chandauti, District- Gaya now old Khata No. 33, Plot No. 549, Area 3.39 Decimils.

(v) for necessary relief/reliefs, order/orders, direction/directions for which the petitioner is entitled in the eye of law."

6. The matter relates to a piece of land as recorded in paragraph no.4 of the petition as under:

"Khata No.33, Plot No.549, New Khata

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no.1, Plot No.781 having an area of 21 ft. 0 inch in length and 40 ft. 33 inch height of solid boundary situated in Mauza Chandauti, District-Gaya."

7. An encroachment proceeding vide no. 15 of 2020-21 was initiated against the petitioner herein alleging that he has encroached the common road used by the locals.

8. The petitioner appeared, submitted document, got verified and found that it is forged and fabricated. Accordingly, the Circle Officer, Sadar Gaya Ji, passed order for the removal of encroachment and made prayer to the respondents for requisition of the force so that the land can be cleared.

9. Aggrieved, the writ petition.

10. Learned counsel for the petitioner submits that pursuant to the notice issued to him, he submitted his objection whether it was taken into consideration, overruled and/or any order passed, that is not on record. The submission is that without passing an appropriate order holding him to be an encroacher and subsequently giving any direction for removal of encroachment, no further step cannot be taken for requisition of the forces for removal of encroachment when the Encroachment Proceeding No.15 of 2020-21 is pending.

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11. A counter affidavit has come on behalf of the State respondents duly signed by the District Magistrate, Gaya Ji in which the order sheet of Encroachment Proceeding No.15 of 2020-21 has been incorporated and the sum and substance of the counter affidavit is that the petitioner is using forged and fabricated document to support his case.

12. Having heard the parties, the question that has been raised by the petitioner is/are-

> *whether an encroachment proceeding (Encroachment Proceeding No.15 of 2020-21) without being taken to its logical conclusion and/or any order passed by the Circle Officer, Sadar, Gaya Ji, can further step be taken for the removal of the encroachment.*

13. The answer is in negative. An encroachment proceeding has been initiated, petitioner was noticed, he submitted his objection, the documents verified and thereafter without passing a reasoned order either accepting the contention put forward by him and/or overruling it and holding him to be an encroacher/asking him to leave the place else, force shall be used to get the area vacated, no further step can be taken.

14. Despite repeated query from the Court to show the

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date of the order when the decision was taken by the Circle Officer, Sadar, Gaya neither the learned State counsel nor the intervener respondent could put forward the said order.

15. In that background, this Court is of the opinion that unless the Circle Officer, Sadar Gaya now Gaya Ji takes a decision and serves copy of the said decision to the petitioner in Encroachment Proceeding No.15 of 2020-21, he/she cannot take further steps.

16. The coordinate Bench earlier granted status quo on 28.11.2022, the same has to continue till the Circle Officer, Sadar, Gaya Ji takes a decision in Encroachment Proceeding No.15 of 2020-21.

17. The intervener respondent will have the opportunity to put forward his view alongwith the copy of the order.

18. With the aforesaid observation, the writ petition is disposed of.

(Rajiv Roy, J)

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