

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4135 of 2024

-
1. Babulal Sao S/o Late Rupchand Sao, R/o Sikandra, P.S. Sikandara, District - Jamui.
 2. Ashok Choudhary, S/o Late Jagdish Choudahry, R/o Sikandra, P.S. Sikandara, District - Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Old Secretariat, Patna.
2. The District Collector, Jamui.
3. Chief Executive Officer, Zila Parishad, Jamui, District - Jamui.
4. Circle Officer, Sikandra, At P.O. and P.S. - Sikandra.
5. Sub-Divisional Officer, Jamui, At Jamui, District- Jamui.
6. Smt. Dulari Devi, Chairman, Zila Parishad, Jamui, At Jamui, District- Jamui.
7. Upendra Ram Son of Ram Swarup Ram, Resident of Mohalla - Jamui Road, Near Kila, P.S. - Sikandara, District- Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Prasad Singh, Sr. Advocate Mr. Vaibhava Veer Shanker, Advocate
For the Resp no. 3	:	Mr. Anwar Karim, Advocate
For the Resp nos. 6 & 7	:	Mrs. Archana Shahi, Sr. Advocate Mr. Swarna Ray, Advocate
For the Respondent/s	:	Mr. Saroj Kumar, AC to SC-15

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

7 27-04-2026 Heard Mr. Umesh Prasad Singh, learned Senior counsel for the petitioners through video conferencing duly assisted by Mr. Vaibhava Veer Shanker, Mrs. Archana Shahi, learned Senior counsel for the respondent nos. 6 & 7, Mr. Anwar Karim representing the respondent no. 3 and Mr. Saroj Kumar, learned AC to SC-15.

2. The present petition has been preferred for the following relief(s):

“I. to issue a Rule NISI in the nature of a writ of certorari to quash and cancel the general



notice issued vide memo.125 dated 24.01.2024 alongwith a Tender notice dated 24.01.2024 by the Chief Executive Officer, Zila Parishad, Jamui by which he has called applications purporting to be under Self Employment Scheme for constructions of shops to be let out on rent on the land situated on the road side and near the hospital gate of Sikandra Bazar/Main market for construction of 11x10 feet i.e. 32 shops for which the estimated cost of each shop had been fixed at Rs. 3,11,937.00 on the terms and conditions as mentioned therein.

II. to issue a writ of mandamus commanding the respondents to refrain from interfering with the peaceful possession of the petitioners on the piece of land measuring 4 decimals each of the two petitioners of Khata No. 1280, Plot No. 454 being the part of the total area of 28 decimal of the said plot of the land thana no. 122 bounded as East: Market Road, West:- Government Hospital, North: Sujit Singh and Rameshwar Singh, South:- Suresh Barnawal

III. to hold and declare that the action of the respondent executive officers Zila Parishad



(District Board) Jamui, is a contemptuous attempt being in violation the judgement and order dated 20.08.1998 in CWJC NO. 7287 of 1998 (Chotelal Gupta & Ors. Vs. The State of Bihar & Ors.) passed by this Hon'ble Court.

IV. to issue other writ, writs, order, orders, direction and directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.”

3. The matter relates to **4 decimals** of land each of the two petitioners with regard to:

*(i) **Khata No. 1280, Plot No. 454** (out of total area of 28 decimals of land under) **Thana No. 122** within the **Circle-Sikandra** in the district of **Jamui**.*

4. Earlier, considering the controversy relating to plot no. 1265 *vis a vis* plot no. 1280, the matter was sent to the Collector, Jamui by this Court to hear all the parties and pass a reasoned order.

5. This led to the **Misc. Case No. 17 of 2024-25 (Upendra Ram vs. Babu Lal Sao and Ors.)** and the **Collector, Jamui** after hearing the respondent no. 7 as also the petitioners beside the State-respondents and the Zila Parishad, came to the conclusion that the Zila Parishad, Jamui through its internal



resources is constructing shops under Thana no. 122, Khata no. 466, Plot no. 1265 (area 80 decimal) for revenue generation and has nothing to do with the other plot (plot no. 1280) recorded as **Gair Majarua Malik** having **85 decimal** of which forty decimal is within the four walls of the Sikandra Hospital. Further, between plot nos. 1265 and 1280 a drain was existing since before.

6. The Collector, Jamui further recorded that though the petitioners herein made claim for the said land on the basis of '*hukumnama*' made by the erstwhile Zamindar, however, before his Court, no document was produced.

7. In that background, the Collector, Jamui came to the conclusion that it is an appropriate case in which the Circle Officer, Sikandra should initiate encroachment proceeding so far as Khata No. 454, Khesra No. 1280 is concerned.

8. The said order is part of the **I.A. No. 04 of 2026** preferred by the respondent no. 6, Chairperson of the Zila Parishad.

9. Learned Senior counsel for the petitioners submit that they are on the said land on the basis of valid documents and if the respondents feel otherwise, the only recourse available before them is/are to take appropriate steps for initiation of encroachment proceeding and not otherwise.



10. Learned Senior counsel representing the respondent nos. 6 and 7 submit that a long existing drain got vanished only because of the encroachment made by the encroachers beside the two petitioners. She submits that admittedly, there is a drain between plot nos. 1265 and 1280 but the petitioners on the basis of the so-called documents which were never produced before the Collector, Jamui claim their rights.

11. She, however, agrees to the fact that the Collector, Jamui has passed an order after hearing the parties wherein he has recorded that the petitioner failed to submit any document and in that background, directed the Circle Officer, Sikandra to take appropriate steps under Bihar Public Land Encroachment Act, 1956 (henceforth for short, 'the Act'). She submits that in that case, the Circle Officer, Sikandra is duty bound to initiate encroachment proceedings against the encroachers.

12. Mr. Anwar Karim is representing the Zila Parishad, Jamui and submits that the initiation of encroachment proceeding is necessary to put the matter to an end.

13. This Court has gone through the facts of the case, the reasoned order passed by the Collector, Jamui beside the submission put forward by the respective parties. The petitioners made a claim, this Court directed them to appear before the



Collector, Jamui. Miscellaneous case was initiated, parties appeared whereafter the Collector, Jamui took a decision.

14. Clearly, the Collector, Jamui has recorded that the petitioners failed to provide any document whatsoever to support the claim which forms their basis for possession of the lands in question. In that background, an order has been passed with the direction to the Circle Officer, Sikandra to take appropriate steps under 'the Act'.

15. Now a reasoned order has come and there is also unanimity between the parties, as recorded above, that they have no objection if the Circle Officer, Sikandra goes ahead and initiate encroachment proceeding so that they can put forward their respective views.

16. In that background, the writ petition stands disposed of with a direction to the **Circle Officer, Sikandra** to immediately act on the direction given by the Collector, Jamui (vide an order dated **11.02.2025**) in **Misc. Case No. 17/2024-25 (Upendra Ram vs. Babulal & Ors.)** and initiate encroachment proceedings within two weeks from today.

17. Needless to add, each and every encroacher must be marked, noticed and all the parties including the petitioners/encroachers, respondent nos. 6 and 7 beside the Zila Parishad and the State-respondents be heard and without any



unnecessary adjournment, the matter has to be taken to its logical conclusion by 30th of June, 2026. If any of the party fails to appear, the Circle Officer, Sikandra shall record the same before going ahead and take a decision.

18. This Court is of the opinion that till the Circle Officer, Sikandra passes an order, the parties shall refrain from precipitating the matter further and shall see to it that the situation at ground zero remain as it is today.

19. The writ petition stands disposed of with the aforesaid observation.

20. Pending I.A(s) also stands disposed of.

(Rajiv Roy, J)

Adnan/-

U			
---	--	--	--

