IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4537 of 2024

CNR No. BRHC010242502024

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Hafizul Rahman @ Hafijur Rahman Son of Late Shibili @ Shekh Mohammad Sibli resident of village - Santpur, P.S. Nautan, District- West Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Collector, West Champaran.
3. The Additional Collector, West Champaran.
4. The Sub. Divisional Officer, Bettiah Sadar, West Champaran.
5. The Circle Officer, Nautan, District West Champaran.
6. Manan Miya, Son of Late Adalat Miya, resident of Village Santpur, P.S. Nautan, District - West Champaran.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Majid Mahboob Khan, Advocate
For the Respondent/s : Mr.Arvind Kumar, GP 5

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR

ORAL ORDER

12 29-10-2026 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for the following relief:-

> *“ i) For issuance of an appropriate writ in the nature of Mandamus for commanding and directing the respondent authority to remove illegal encroachment on Gaimarjarua Land situated in Mauza: Santpur, Anchal: Nautan, District: West Champaran appertaining to Thana No. 152,*

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Khata No. 717, Khesra No. 1417, admeasuring an area of 3 dhurs, situated in Mauza: Nautan Dubey, Anchal: Nautan (West Champaran), which is a public pathway, illegally encroached by the private respondent and anti-social elements which completely obstructs outgoing of petitioner and other villagers.

3. The petitioner is aggrieved by the failure of the respondent authorities to implement the orders passed by competent authorities for removal of the encroachment over the public Gairmajarua land, which obstructs the outgoing of the petitioner and other villagers.

4. Learned counsel for the petitioner submits that the land in question is a public Gairmajarua land at Mauza Nautan Dubey, Thana No. 152, Khata No. 717, Khesra No. 1417, area 3 dhur, encroached upon by the private respondent no. 6, Manan Miyan, by constructing an unauthorized hut, and that at the petitioner’s instance, the Circle Officer, Nautan initiated Encroachment Case No. 18/2017-18 under the Bihar Public Land Encroachment Act, 1956. In Case No. 2485/2013 under Section 133 Cr.P.C., the Sub Divisional Officer, Bettiah, by order dated 24.09.2014, directed removal of the encroachment

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and directed the Circle Officer to implement the order and that when the private respondent's aggrieved by the order preferred Cr. Revision No. 180 of 2016 before the A.D.J.-V, Bettiah but the same was dismissed on 16.06.2017.

5. Learned counsel for the petitioner further submits that the Sub Divisional Public Grievance Redressal Authority, Bettiah Sadar, by order dated 30.11.2019, found the land (Khesra No. 1417, Khata No. 717) to be public land and directed the Circle Officer to remove the encroachment. The order was not complied with and on the petitioner's appeal before the Deputy Collector, the Circle Officer submitted a wrong report that the encroachment had already been removed, on which the appeal was dropped on 04.04.2021 after which, due to non-compliance of the order to remove the encroachment, the petitioner filed a representation, upon which, the Additional Collector, vide Letter No. 4352 dated 13.12.2022, directed the Circle Officer to conclude Encroachment Case No. 18/2017-18 by passing a final order under Section 6(1) after giving full opportunity of hearing to the parties and to remove the encroachment.

6. Learned counsel for the petitioner also submits that by order dated 28.03.2024 in this writ petition, the Circle

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Officer was directed to consider the petitioner's representation and conclude Encroachment Case No. 18 of 2017-18 within four weeks after hearing all concerned parties, with liberty to seek revival in case of non-compliance and that despite the petitioner's representation dated 05.04.2024, no step was taken for more than four months, and the petitioner was not heard. It was lastly submitted that the Collector's order dated 19.05.2025 in Encroachment Appeal Case No. R.M. 38 of 2018-19 directed the Circle Officer to enquire in presence of both parties and, if the appellant and others were found to have encroached the road, to initiate fresh proceedings under the Act and conclude them within 60 days and that the Anchal Amin's report dated 18.03.2026 states that five persons, including Manan Mian, have encroached the public land of the rasta yet, the Circle Officer has failed to comply with the order dated 19.05.2025 even after one year.

7. Learned counsel for the State submits, that the Circle Officer has acted in accordance with law, with no deliberate inaction or intentional delay. In compliance with the order dated 19.05.2025 of the Collector, West Champaran in R.M. Case No. 38 of 2018-19, he revived the encroachment proceeding and called for reports from the Revenue Karmachari

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and the Anchal Amin. The reports found that land of Mauza Nautan Dubey, Thana No. 152, Khata No. 717, Plot No. 1624, total area 2 Acre 66 Decimal, recorded as “Gairmazarua Aam Rasta”, had been encroached upon in part, in front of the petitioner’s land, by the private respondent and certain other persons through hutments and residential structures with asbestos sheet roofing, after which, notices under Section 3(1) of the Act were issued on 12.05.2026.

8. Learned counsel for the State further submits that as the private respondent and others neither appeared nor submitted documents, a fresh notice dated 16.06.2026 under Section 3(1) was issued, which they denied receiving, whereupon notice dated 17.08.2026 was issued and sent by Registered Post vide SP-RF No. 627155673 IN dated 25.08.2026 and that the fresh proceeding is pending for appearance and hearing of the parties, it having become necessary after the earlier order was quashed by the appellate authority on technical and legal grounds relating to incorrect plot identification. It was lastly submitted that the pending encroachment proceeding shall be concluded expeditiously in accordance with law.

9. Having heard the parties and perused the record,

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Circle Officer, Nautan, is hereby directed to expeditiously adjudicate and conclude the pending Encroachment Case. It is expected that the said proceeding shall be disposed of in strict accordance with the statutory provisions of law, preferably within a period of six months from the date of receipt or production of a certified copy of this order. Consequent upon such adjudication, the respondent authority shall take immediate and effective steps for the removal of the said encroachment from the public land.

10. The writ petition is accordingly disposed of on the aforesaid terms.

(Alok Kumar, J)

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