IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5583 of 2022
CNR No. BRHC010274282022

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Hareram Tiwari S/o Shyamdevi Tiwari, R/o Vill. and P.O.- Bhadsera, P.S.- Tarari, Distt.- Bhojpur (ARA)

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue and Land Reforms, Bihar
2. District Magistrate, Bhojpur-cum- Second Appellate Authority, Public Grievance Redressal Forum
3. Additional Collector, Bhojpur-cum- First Appellate Authority, Public Grievance Redressal Forum
4. Circle Officer, Tarari, Public Grivance Redressal Officer, Distt. - Bhojpur (Ara).
5. Bali Ram Tiwari S/o Late Nathuni Tiwary, R/o Vill and P.O.- Bhadsera, P.S.- Tarari, Distt.- Bhojpur (ARA)

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Parth Gaurav, Advocate
	:	Mr. Ashutosh Kumar Pandey, Advocate
	:	Mr. Praveer, Advocate
For the State	:	Mr. Rishi Raj Sinha, SC-19
For the Resp. No.5	:	Mr. Arvind Kumar Sinha, Advocate
	:	Mr. Satish Chandra Yadav, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

7 29-10-2026 Heard the parties.

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

"(i) for quashing the order dated 28.06.2021 issued vide memo no.998 by the District Magistrate, Bhojpur-cum- Second Appellate Authority, under Public Grievance Redressal Act whereby the returning wall standing over the land in question has been ordered to be demolished without even initiating any

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encroachment proceeding as per the Act.

(ii) directing the respondent authorities to not indulge themselves in the proceedings for which they are not authorized under Bihar Right to Public Grievance Redressal Act, 2015.

(iii) maintaining status quo over the land in question as existing on the date of filing of this application during the pendency of the present writ application.

(iv) for any other relief(s) to which the petitioner is deemed entitled to.

3. The matter relates to the land which stands incorporated in paragraph no.4 of the petition as under:

"Khata No.198, Plot No.256, Area 67 decimals situated at Village and PO-Bhadsera, P.S.-Tarari, Distt.-Bhojpur."

4. It seems that one Bali Ram Tiwari (respondent no.5 herein) preferred a Public Interest Litigation vide CWJC No.19515 of 2021 (Bali Ram Tiwari vs. The State of Bihar and Ors.) for removal of encroachment made on the public pond used for social welfare and is of public importance.

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5. The matter was taken up by a Division Bench of this Court headed by Hon'ble the Chief Justice (as the Lordship then) on 05.01.2022 and gave direction to the appropriate authority who shall be taking a decision in accordance with law.

6. The respondent no.5 considered appropriate authority to be the Collector of the district and accordingly submitted his representation before the Collector, Bhojpur at Ara and vide memo no.998 dated 28.06.2021, the Collector, Ara directed the Circle Officer, Tarari to act in accordance with law for removal of the encroachment.

7. Aggrieved, the present petition.

8. Learned counsel for the petitioner submits that without hearing him, a decision has been given. The contention of the petitioner is that there is a drainage constructed under MNREGA but now the respondent no.5 alongwith some of the local element want it to vanish to serve their purpose.

9. Learned State counsel submits that Collector, Bhojpur at Ara has taken a decision and direction given to the Circle Officer, Tarari who shall be taking the matter to its logical conclusion at an earliest.

10. This Court is of the opinion that when a direction was given, the Circle Officer, Tarari has to act strictly in

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accordance with law inasmuch as if the enquiry report submitted by his revenue officials/subordinates indicate that the construction that has been made is actually an encroachment, he has to initiate proper proceeding, notice all the relevant parties and further has to further take encroachment proceeding to a logical conclusion by passing a reasoned order. Prior to that, he cannot take any steps much less removal of the structure.

11. The authority also has to look into the claim put forward by the petitioner that the government money has been invested in this construction and as such, if at all any decision comes contrary to that recording it as an encroachment responsibilities must have be fixed for the loss of the government revenue by using MNREGA fund.

12. This Court makes it clear that unless the encroachment proceeding is initiated/taken to its logical conclusion, no further step whatsoever can be taken in the present matter.

13. The writ petition is disposed of with the aforesaid observation.

(Rajiv Roy, J)

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