

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7618 of 2026

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Jaynarayan Yadav son of Late Maharu Yadav, resident of village- Katahara,
P.O.- Malbalhan, P.S.- Katoriya (Jamdaha O.P.), District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Banka.
3. The Circle Officer (Anchal Adhikari), Block and Anchal-Katoriya, District-Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Advocate
For the Respondent/s : Mr. Standing Counsel (15)

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

2 14-05-2026 Heard learned counsel for the petitioner and learned
counsel for the State.

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

*i) To issue a writ of certiorari, setting aside
the notice issued vide Prapatra-I dated 16.04.2026
by the Anchal Adhikari, Katoriya, District-Banka
(Respondent No.3) in Encroachment Case No.
03/2026-27 (Annexure-P/6) by which the
Respondent Circle Officer, Katoriya without
examining the factual aspect of the land
appertaining to Khata No. 1, Khesra No. 495,
Thana No. 201/35, area 2 Acre 12 decimals of
Mauza- Katahara, Anchal Katoriya, District-*



Banka, stating therein land in question has been declared as Public land under sub-clause 3 of clause-2 of Bihar Public Land Encroachment Act, 1956 and he is directed to appear before the undersigned on 22.04.2026 at 11:00 A.M. to show the cause why not encroachment be removed, failing which order will be passed in his absence.

ii) To issue a writ of Mandamus, commanding and directing the Respondent authority concerned, not to disturb the peaceful possession of the petitioner over his land appertaining to Khata No. 1, Khesra No. 495, Thana No. 201/35, area 2 Acre 12 decimals of Mauza- Katahara, Anchal- Katoriya, District-Banka, because the said land was settled to grandfather of petitioner namely, Santosh Mahto by way of executing Hukumnama in the year 1918 and after submitting return by the Ex-landlord, Jamabandi was also created in his favour vide order dated 10.10.1964 passed the order Circle Officer, Katoriya and since then petitioner has been residing over the land in question peacefully and paying land revenue to the State Government and getting rent upto-date rent receipts.

iii) To stay the proceeding of Encroachment Case No.03/2026-27 as well as operation of impugned notice vide Prapatra-I dated 16.04.2026 issued by the Circle Officer, Katoriya, District-Banka.

iv) Any other relief/reliefs for which



petitioner is found entitled in the facts and circumstances of this case.

3. Learned counsel for the petitioner submits that after vesting of the *Jamindari* right, Ex- *Jamindar* Smt. Thakurain Kusum Kumar Raj Laxmipur filed return in favour of Santoshi Mahto, grandfather of petitioner for the land in question and the said land was settled in favour of grandfather of the petitioner vide Mutation Case No.179/1964-65, which is said to have been initiated by Circle Officer, Katoriya, and after obtaining the report from Halka Karamchari and finding the possession of grandfather of the petitioner over the land in question, the Circle Officer, Katoriya, is said to have passed an order dated 10.10.1964 for creating *Jamabandi* of the land in favour of Santoshi Mahto @ Santoshi Yadav

4. It has next been submitted that contrary to the revenue records maintained in the Office of Circle Officer, Katoriya, the proceeding of the kind has been initiated, while, the petitioner is said to have been paying rent regularly to the revenue authorities, based on the *jamabandi* so created, which is appended with the writ petition as Annexure-P/3 and P/4.

5. It has next been submitted that, issuing the aforesaid documents and revenue records, a proceeding under



the Bihar Land Encroachment Act, 1956 (for brevity, “the Act of 1956”) has been initiated and notice under Section 3(2) of the Act of 1956 has been issued to the petitioner. It has further been submitted that the petitioner proposes to file a detailed response before the Circle Officer, Katoriya, annexing all the supporting revenue records as well as the orders passed by the Circle Officer, Katoriya, to demonstrate that the petitioner has been residing over the said land since 1948 and that a long-standing *jamabandi* exists in his favour. It has also been contended that, in view of the judgment of this Hon’ble Court in the case of ***State of Bihar & Ors. vs. Harendra Nath Tiwari*** reported in ***2015 (1) PLJR 606***, such rights cannot be disturbed / interfered in proceedings under the Act of 1956, and the proper remedy, if any, lies before a competent civil court. However, without resorting to such remedy, the authorities have initiated the present proceeding, which is wholly without jurisdiction.

6. On the other hand, learned counsel for the State submits that the petitioner may be directed to file response to such notice issued under Section 3(2) of the Act of 1956 with all supportive materials and the judgment which governs the issue in question and on filing of such response before the Circle Officer, Katoriya, who would be obliged to verify the



response with all supportive materials along with revenue records, and on finding the claim to be justified in law, necessary order shall be passed and the same shall be communicated to the petitioner forthwith.

7. It is expected that in deciding the claim of this petitioner, the principles of natural justice shall be followed by the Circle Officer and adhering to those principles and resorting to the procedures prescribed under the Act of 1956, a final order shall be recorded and till the final orders are passed and forum of appeal, which is available with this petitioner is exhausted, no coercive measures shall be taken against this petitioner.

8. Accordingly, the writ petition stands disposed of.

(Ajit Kumar, J)

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