

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9890 of 2018

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Rabindra Kumar Sinha Son of Late Jamuna Prasad Resident of Mahavir Marg, Kamal Market, P.O. Kishanganj, P.S. Kishanganj, District Kishanganj, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate/Collector, Kishanganj,
3. The Sub-Divisional Officer, Kishanganj
4. The Kishanganj Municipality Nagar Parishad through its Chief Executive Officer, District Kishanganj

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Agrawal, Advocate
Mr. Kumar Ravish, Advocate
For the Respondent/s : Mr. Dhurjati Kumar Prasad, GP-14
For Kishanganj Nagar Parishad : Mr. Bindhyachal Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 22-01-2026 Heard Mr. Ramesh Kumar Agrawal, learned counsel for the petitioner duly assisted by Kumar Ravish, Mr. Dhurjati Kumar Prasad, learned GP-14 and Mr. Bindhyachal Rai, learned counsel for the Kishanganj Municipal Corporation.

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

(i) to issue a writ of certiorari by quashing and setting aside Annexure-P/10 i.e. the order dated 17.10.2017 passed by the Respondent No. 2 District Magistrate, Kishanganj in Encroachment Appeal Case



No. 4 of 1996: Rabindra Kumar Sinha Vs. Nagar Parishad, Kishanganj and others whereby and whereunder the appeal filed by the petitioner was dismissed contrary to the mandate of law and legal proposition without considering the last Survey Report;

(ii) to issue a consequential writ of mandamus directing and commanding the respondents to restore the land situated at Circle: Kishanganj, Mauza: Kasba Kutubganj, Thana No. 460, M.S. Khata No. 08, Municipal Survey Plot No. 35/46, Ward No. 13, Municipality Holding No. 77 (Old), to an extent of 85 square feet, construction whereof was held to be illegal on the ground of encroachment of public road which was demolished by the petitioner in the year 1996 itself in view of constraints imposed by the Municipality in the demolition drive;

(iii) to direct the Respondents to suitably compensate this petitioner for the illegality committed by them which led to demolition



of the part of the house of the petitioner;

(iv) to any other relief or relief (s) which the petitioner may be found entitled to in the facts and circumstances of the case.

3. The petitioner owns a piece of land in the township of Kishanganj and claims that when the encroachment drive was carried out by the District Administration in the year 1996 based on 1910 survey report. Thereafter, he on his own, demolished 85 sq.ft. area to prevent damage of rest of his existing building. However, the contention is that the said land belongs to him which is part of 06 kathas that the family owns. The further claim is that following the order passed in **C.W.J.C. No. 9119 of 1996 (Sanjeev Prasad & Ors. vs. the State and Ors.)**, the survey report of the year 1986 be taken into account instead of 1910.

4. The matter, ultimately, went before the Collector, Kishanganj who after hearing the parties in **Encroachment Appeal Case No. 4 of 1996 (Rabindra Kumar Sinha Vs. Nagar Parishad, Kishanganj & Ors.)** held that the petitioner wants to take benefit of the order passed by the **Patna High Court** in **C.W.J.C. No. 9119 of 1996** but actually illegal encroachment was made on 85 sq.ft. of land which now stands



removed and the same is justified. The appeal was accordingly, dismissed which followed the present writ petition.

5. Learned counsel for the petitioner has taken this Court to the typed copy of Khatiyani of 1986 to show that he owns 06 kathas of land and by way of supplementary affidavit, the petitioner has stated that the portion that was demolished is part of the 06 kathas of land.

6. Counter affidavits have come on behalf of the respondents and the learned State Counsel has taken this Court to paragraph-11 to submit that the 85 sq.ft. of land was encroached by him which has now stands removed after the special drive of removal was conducted.

7. This Court has taken note of the fact that area was cleared by the petitioner himself though stand is that to save the building from getting damaged, he took the extreme steps and now wants its restoration.

8. Further, the petitioner claims that the structure is existing there pursuant to the sanctioned plan and the family is paying rent receipt regularly to the Kishanganj Nagar Parishad. In that background, this Court wanted to go through the sanctioned dues as also the rent receipts. Unfortunately, both are missing from the petition.



09. The petitioner claims 74 sq.ft. of the land from which encroachment has voluntary been removed by him, the State on the other hand disputes the same and records that as per the year 1910 survey, it is the State property. Clearly, disputed questions of facts are there which can at best be adjudicated by a competent Civil Court.

10. Both the parties are free to agitate the matter before a competent Civil Court with regard to the aforesaid 74 sq.ft.

11. This Court do not find any reason to interfere with the order passed by the Collector, Kishanganj. The writ petition is disposed of with the aforesaid observation.

(Rajiv Roy, J)

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