

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18462 of 2021

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Md. Zahiruddin, Son of Late Salamat Hussain, Resident of Village - Pichhra,
P.S. - Baarsoi, District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Revenue and Land Reforms.
2. The District Magistrate, Katihar.
3. The Superintendent of Police, Katihar.
4. The Sub Divisional Officer, Barsoi, District - Katihar.
5. The D.C.L.R., Barsoi, District - Katihar.
6. The Circle Officer, Barsoi Block, District - Katihar.
7. S.H.O., Barsoi, P.S. District - Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Waliur Rahman, Advocate
Mr. Binay Kumar, Advocate
Mr. Md. Najmul Hoda, Advocate
For the Respondent/s : Mr. Raj Kishore Roy (GP-18)

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL JUDGMENT

Date : 16-03-2026

Heard Mr. Md. Waliur Rahman, learned counsel on
behalf of the petitioner and Mr. Raj Kishore Roy, learned GP-18
for the State.



2. The present writ application has been filed for the following reliefs:

(i) For issuance of an appropriate writ order or direction for quashing the order of the Superintendent of Police, Katihar contained in Memo No. 130 Legal dated 07.09.2021 by which he has held that the land bearing Jamabandi No. 1400, Khata No. 572, Kheshra No. 1055, Area 35 dec. of Mouza Sultanpur, P.S. Barsoi, District Katihar is of Bihar Government and the petitioner could not establish his title upon the same;

(ii) For issuance of an appropriate writ order or direction to the respondents for restraining any unauthorized persons from interfering in the peaceful possession of the same;

(iii) For issuance of an appropriate writ, order or direction commanding the respondents authorities to provide protection to life and property of the petitioner in respect of his ancestral land/property detailed given in the writ application;

(iv) For issuance of an appropriate writ, order or direction commanding the respondents authorities to deploy police force if necessitated on the cost of the petitioner upon his ancestral land; and

(v) For any other relief or reliefs for which petitioner may be found entitled, deemed fit and proper in the facts and circumstances of the case.

3. Mr. Md. Waliur Rahman, learned counsel for the petitioner submits that it is one of those cases where the authority has exceeded its jurisdiction to such an extent that a police officer has gone on to hold the land in question, to belong to the State of Bihar and thereby the claims by the respective parties over the land in question was not confirmed.

4. The learned counsel for the petitioner submits that the land in question was gifted to the petitioner by his uncle and on



such basis he had taken possession thereof and in the year 2018-19, the petitioner had gone to construct some shops over the same and he was demanded extortion money from the local mafias, on account of which the petitioner had approached the local administration to provide protection in construction of the said shop. As no help was seen forthcoming, the petitioner moved before this Hon'ble High Court for a direction to the respondent authorities to provide protection from the local mafias. It has been submitted that this Hon'ble Court vide order dated 12.09.2019 passed in CWJC No. 18430 of 2019, directed the petitioner to file representation before the Superintendent of Police, Katihar who would pass a reasoned order on the application of the petitioner.

5. The learned counsel for the petitioner submits that the respondent authorities were violating to comply with the order of the High Court, which compelled the petitioner to file a contempt application bearing MJC No. 5173 of 2019 and the said contempt application was heard and disposed of by the Lok Adalat with a liberty to challenge the order of the Superintendent of Police, Katihar, which has been impugned in the present writ application.

6. It has been contended by the learned counsel for the petitioner that the Superintendent of Police, Katihar without providing any opportunity of hearing to the petitioner and



considering the revenue records and also relying upon the collusive report of Anchal Adhikari, Barsoi declared the raiyati land of the petitioner as land of Government of Bihar by the impugned order dated 07.09.2021.

7. The learned counsel for the petitioner thus submits that the Superintendent of Police, Katihar has exceeded its jurisdiction by referring to the Khatian and holding that the claim being led by both the parties is not being proved. It has been submitted by the learned counsel for the petitioner that the Superintendent of Police, Katihar has even erred on facts by recording that the R.S. Khatian of the land in question is entered in the name of Bihar Sarkar Khas (*बिहार सरकार खास*). It has been submitted that the land is recorded in the name of the petitioner and the rent is being deposited on behalf of the petitioner, who is being granted receipt thereof. Moreover, the mutation appeal filed by the second party has also been dismissed and, therefore, the mutation in favour of the petitioner still stands.

8. It has thus been contended that the order impugned has been passed exceeding the jurisdiction and the power which is vested with the revisional authorities or a competent Civil Court has been invoked by the Superintendent of Police, Katihar and moreover, the said order was passed without giving any



opportunity to the petitioner of being heard which violates the principles of natural justice.

9. Mr. Raj Kishore Roy, learned GP-18 submits that there is no illegality in the order impugned and the same has been passed taking into account the entries in Khatian and the report submitted by the Circle Officer. It has further been submitted that the Superintendent of Police, Katihar taking into account the aforesaid entries has gone on to pass the order impugned.

10. Having heard the learned counsel for the petitioner and the learned GP-18, two facts which emerged from the pleadings and the documents annexed therewith is that the order impugned has been passed by the Superintendent of Police, Katihar in pursuance to the directions of this Court earlier passed in CWJC No. 18430 of 2019 and he has gone on to hold that the claim of the petitioner is not valid.

11. Before proceeding ahead to analyze the impugned order, the order passed by this Court in the aforesaid writ petition needs appreciation and the relevant part of the order dated 12.09.2019 is reproduced hereunder:

“Accordingly, it is directed that the petitioner may file a representation before the respondent no. 5 within a period of four weeks from today and the respondent no. 5 shall dispose of the same by a reasoned and speaking order within a period of eight weeks thereafter.



The writ petition stands disposed off on the aforesaid terms.”

12. From perusal of such order and the prayer made by the petitioner in the said writ application, it would be evident that the petitioner had approached this Court earlier for grant of protection during construction of shops over the land in question, however the case was disposed of with a liberty to file representation before the Superintendent of Police, Katihar for redressal of his grievances.

13. This Court, on perusal of the impugned order dated 07.09.2021, finds that the Superintendent of Police, Katihar while considering the representation filed by the petitioner examined the claims and counter claims by the parties, who have been claiming their right over the land in question and also the reports of the Sub-Divisional Magistrate and the Circle Officer. The Superintendent of Police, Katihar after discussing the entire facts of the case and referring to the reports by the relevant authorities has dealt with the rival claim of the parties. It has also been observed that in the second last paragraph of the impugned order dated 07.09.2021, the Superintendent of Police, Katihar has noted as under:

14. “CWJC No. 18430 of 2019 में मापी की आदेश प्राप्त है।”



15. This observation by the Superintendent of Police, Katihar in, itself, goes on to show that he was not even aware that there was no such direction given by this Hon'ble High Court while disposing of CWJC No. 18430 of 2019, the operating part of which has already been recorded hereinabove.

16. The perusal of the impugned order dated 07.09.2021 further discloses the fact that the Superintendent of Police, Katihar instead of making a report of holding whether there is any threat of life and property to the petitioner has gone on to hold that the land in question, as per the R.S. Khatian is entered in the name of Bihar Sarkar Khas (बिहार सरकार खास) and the nature of land was found to be POKHAR (पोखर). The Superintendent of Police, Katihar travelling beyond jurisdiction has gone on to hold that the very claim of the petitioner as well as the other party's claim over the land in question was not being proved on the basis of the materials available on record and has, thereby, passed the aforesaid order on 07.09.2021, assuming jurisdiction of a revenue authority.

17. The order impugned, which has been passed in pursuance to the directions of this Hon'ble Court given in CWJC No. 18430 of 2019 has not only been passed beyond the directions of this Hon'ble Court but also beyond the jurisdiction of the Superintendent of Police, Katihar who had to only see as to



whether there was any threat to the petitioner on account of making such constructions. To the understanding of this Court, the Superintendent of Police, Katihar could not have travelled beyond its jurisdiction to go on and analyze the right title of the land and, in fact, the Superintendent of Police, Katihar had no jurisdiction to even record a finding with respect to the claims of the petitioner and others over the land in question to be *prima facie* suspicious.

18. In view of the aforesaid, this Court finds that the present order impugned dated 07.09.2021 as contained in Annexure-1 to the writ application passed by the Superintendent of Police, Katihar has been passed beyond its jurisdiction and, therefore, is illegal and hence, the same is set aside.

19. The Superintendent of Police, Katihar is directed to see that no untoward incident occurs over the land in question and the party, who is disputing the title over the land shall be cautioned not to disturb the possession of the petitioner, whose name is entered in Register-II and who has been paying rent till year 2019-20.

20. It goes without saying that any party, who is aggrieved by the possession of the petitioner and is challenging the right and title over the land in question has an alternative remedy of moving before a competent Civil Court for adjudication of its



right, which includes even the State of Bihar, as has been held by the Superintendent of Police, Katihar in the impugned order.

21. The authorities of State of Bihar shall also be at liberty to initiate appropriate proceedings, if it challenges the right and title of the petitioner over such property.

22. The application stands allowed.

(Sourendra Pandey, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.03.2026
Transmission Date	NA

