

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16652 of 2022

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Surya Narayan Ram Arun S/o Late Jibachh Ram, Permanent resident of Village- Behta P.S.- Benipatti, District- Madhuabani (Bihar) Presently residing at Prabhat Nagar, N.H.- 28 Bhagwanpur, Opp. H.P. Patrol Pump P.S.- Sadar Muzaffarpur, District- Muzaffarpur (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Collector of the District, Madhubani.
2. The Collector of the District, Madhubani.
3. The Sub Divisional Officer, Benipatti, Madhubani.
4. The Deputy Collector, Land Reform, Benipatti, Madhubani.
5. The Anchala Adhikari, Benipatti, Madhubani.
6. Bechan Mukhiya son of Late Ram Charan Mukhiya, Resident of Village- Behta Purana Hat P.S. and Anchal- Benipatti, Distt- Madhubani (Bihar).
7. Tejan Mukhiya son of Late Ram Charan Mukhiya, Resident of Village- Behta Purana Hat P.S. and Anchal- Benipatti, Distt- Madhubani (Bihar).
8. Kanu Mukhiya son of Late Sanichar Mukhiya, Resident of Village- Kachhra (Behta Purana Hat) P.S. and Anchal- Benipatti, Distt- Madhubani (Bihar).
9. Shyam Sunder son of Late Sanichar Mukhiya, Resident of Village- Kachhra (Behta Purana Hat) P.S. and Anchal- Benipatti, Distt- Madhubani (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Nath Jha, Advocate
For the Respondent/s : Mr. Sajid Salim Khan, SC-25

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT

Date : 20-04-2026

Heard the learned counsel for the parties.

2. The present writ application under Article 226 of the Constitution of India has been preferred by the petitioner for directing the respondent authorities to remove the respondent second party from the raiyati and homestead lands of the petitioner which has been forcefully encroached upon by them.



3. The fact giving rise to the present writ application is to the effect that the present petitioner purchased the raiyat land in the name of his wife (now deceased), Kumari Bindu Arun @ Smt. Anju Arun, through registered sale deed dated 27.06.1991 from one Gopi Nath Chaudhary and Another and subsequently from one Satya Narayan Prasad vide Reg. Sale deed dated 26.11.2019 and came in possession over the same after the aforesaid purchase and with respect to the aforesaid purchase the Jamabandi was opened in the name of the wife of the petitioner. Consequently, rent receipts are also being issued relating to the land in question.

4. In the year 2011-12, the land bearing Khata No.147/324, Plot No.1583/3732, for area measuring 02 kh. 15 dhur, a proceeding was initiated at the behest of the vendor of the petitioner namely Satay Narayan Prasad before the learned Deputy Collector, Land Reform, Benipatti vide BLDR Case No. 91 of 2011-12, consequently, by order dated 07.12.2011 the learned Deputy Collector, Land Reform, Benipatti, after hearing the parties was pleased to direct the learned Circle Officer to get the land of the petitioner vacated from Bechan Mukhiya and others, who were found to be the encroachers.

5. Being aggrieved by the order of the learned Deputy



Collector, Land Reform, Benipatti, vendor of the petitioner Satay Narayan Prasad has challenged the order before the Divisional Commissioner, Darbhanga, in which it was directed to both the parties to approach the learned Civil Court.

6. Learned counsel for the petitioner submits that the respondents have failed to comply with the order passed by the learned Deputy Collector, Land Reform, Benipatti, whereby direction was issued to him to get the land vacated. It has further been submitted that the petitioner was shocked when he came to know that the respondent second party and their legal heirs tried to claim for Basgit Parcha over 08 decimal lands of the petitioner pertaining to Plot no. 3733, which has continuously been in possession of the petitioner since several decades. The petitioner has come to know that respondent second party and their legal heirs have even applied for Basgit Parcha on the said Plot No.1583/3733 measuring 8 decimal belonging to the petitioner, before the learned Circle Officer, though their claim has been rejected long ago by the then learned Circle Officer in the year 2003.

7. Learned counsel for the petitioner submits that having been aggrieved against the said action of the respondent second party and their legal heirs, the present petitioner



submitted several representation before the Competent Authorities but none of the said representations have been considered and disposed of by the Authorities concerned till date.

8. It has lastly been submitted that the petitioner is a superannuated person and the land which has been encroached by the respondent second party and his legal heirs are fertile land and fit for cultivation, thus, the encroachment be removed, so that the petitioner can enjoy the possession of the land peacefully.

9. Learned counsel for the respondent-State submits by referring to the counter affidavit filed on behalf of the respondent no. 2 to 5 that the petitioner has no right or cause of action to file this instant writ petition. It has further been submitted that the present writ petition of the petitioner is bad for misjoinder and non-joinder of the parties. It has next been submitted that the petitioner has approached this Hon'ble Court without a cogent reason and the strict onus lies upon the petitioner as the pleadings are distorted facts.

10. Learned counsel for the respondent submits that the vendor of the petitioner himself was not in possession over R.S.P. No. 3732 and 3733 which will be evident from the order



dated 07.12.2011 passed by the learned Deputy Collector, Land Reform, Benipatti, hence the petitioner never got possession over the said land on the basis of so-called sale deed dated 26.11.2019 executed by Satya Narayan Prasad, thus, from the above fact, it is clear that the sale deed dated 26.11.2019 and 27.11.2019 were never effected and therefore the present writ application is misconceived and is not maintainable.

11. Having heard the learned counsel for the parties, this Court is of the *prima facie* opinion that the present writ application with respect to the prayer of a direction for removal of respondent 2nd party from the raiyati homestead land of the petitioner, which is said to have been forcibly encroached upon by the respondent 2nd party, cannot be gone into in the present writ application. This Court finds that such a prayer can be made before a Competent Court for recovery of possession.

12. As far as further prayer that the Circle Officer may be directed to comply with the direction of the Deputy Collector, Land Reform, Benipatti, Madhubani, in Case No.91/2011-12 is concerned, even in the said case, the case of the vendor of the petitioner, was not held to be valid and it has been held by the learned Deputy Collector, Land Reform, Benipatti, Madhubani, that the vendor of the petitioner has



validly purchased the said land from a legal owner of the land could not be ascertained and therefore, had refused to act on the application of the vendor of the petitioner and therefore, the same was dismissed.

13. In view of such a categorical finding where the title of the vendor of the petitioner was being doubted by the learned Deputy Collector, Land Reform, Benipatti, Madhubani, the subsequent transfer of such a title upon the petitioner would also be under the scanner unless the same is adjudicated by a Competent Civil Court.

14. It is also a well-settled law that in all cases where the dispute of title is involved, the Revenue Authority cannot intervene and pass specific orders of vacating the land of one of the parties.

15. This Court has observed that even the prayer of the writ petition is for direction to remove the encroachment made by the private respondent 2nd party and therefore, the writ petitioner is more so targeted towards an act being committed by the private respondents and therefore no positive direction can be passed under a writ jurisdiction.

16. In the counter affidavit filed on behalf of the State, one more fact has been brought to the knowledge of this Court



whereby a report was called for by the Circle Officer, Benipatti, during the pendency of the present writ application and the Anchal Amin, Benipatti, after measurement of the land and after making spot verification, reported on 10.09.2020, stating therein that Bechan Mukhiya, Tejan Mukhiya and Shyam Sunder have their respective houses situated over the land in question.

17. This fact has not been controverted by the learned counsel for the petitioner by filing any rejoinder.

18. In view of such facts, the only remedy, to the understanding of this Court, lies before a competent Civil Court for the petitioner to get a declaration of not only title but also recovery of possession from the private respondent nos.6 to 9.

19. In view of the aforesaid, the present writ application is misconceived and the same is dismissed.

(Sourendra Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.04.2026
Transmission Date	NA

