IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1079 of 2025
In
Civil Writ Jurisdiction Case No.6814 of 2025

CNR No. BRHC011128232025

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Hirdaya Nanda Mishra S/o Vidhyachan Mishra, R/o of village Karahi Khurad, P.S.- Basantpur, District- Siwan.

... ... Appellant/s

Versus

1. The State of Bihar through Principal Secretary Land and Revenue Department, Government of Bihar, Patna.
2. The Collector, District Siwan.
3. The Collector, Saran at Chhapra.
4. The Land Acquisition Officer, District- Saran at Chhapra.
5. The Land Acquisition Officer, District- Siwan.
6. The District Education Officer Siwan.
7. The Circle Officer Basantpur Block, District Siwan.
8. The Head Master of High School Basantpur, District Siwan.
9. Ajay Prasad, S/o Late Jai Mangal Prasad, r/o village- Karhi Khurd, P.S. Basantpur, District- Siwan.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Chandra Kant, Advocate Mr. Sudhanshu Prakash, Advocate Ms. Ayushi Gupta, Advocate Mr. Shakshyam Anand, Advocate Mr. Manish Kumar, Advocate
For the Respondent/s	:	Mr. Uma Shankar Pd. Singh, GP 37 Mr. Radha Krishna Tripathi, AC to GP 37

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

3 29-10-2026 **Re: I.A. No. 01 of 2025**

Learned counsel for the appellant presses I.A. No. 01 of 2025 for condoning the delay of 22 days in preferring this

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appeal.

2. For the reasons stated in the application, the delay in preferring this appeal is hereby condoned.

3. I.A. No. 01 of 2025 stands allowed.

Re: L.P.A No. 1079 of 2025

4. Heard learned counsel for the parties.

5. The present *intra* court appeal has been preferred against the order dated 08.09.2025 passed in CWJC No. 6814 of 2025 whereby the writ petition preferred by the writ-petitioner (appellant herein) came to be dismissed.

6. The writ petition was filed seeking a direction to the official respondents to enquire into whether the land appertaining to Khata No. 66, Plot No. 225, situated at Basantpur, P.S. Basantpur, District Siwan, acquired for construction of Basantpur High School in Land Acquisition Proceeding No. 6 of 1966-67, pursuant to Declaration No. 820 dated 25.05.1966, published in the Gazette on 15.06.1966, had subsequently been released from acquisition and restored to the original raiyat.

7. The dispute relates to 1 Katha 2 Dhur of land forming part of the aforesaid plot, which, according to the appellant, was acquired for the school and used as an access

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road to its playground. The appellant states that compensation for the acquired land was paid to Ram Nath Shah, the grandfather of private respondent no. 9, and that the land records reflect Jamabandi No. 144 in the name of the school.

8. It is alleged that private respondent no. 9 encroached upon the aforesaid land and obstructed the access road to the school by raising construction. Despite representations made by the Headmaster of the school to the District Education Officer, the Circle Officer and other authorities, and proceedings initiated before the Public Grievance Redressal Officer, the alleged encroachment remained unresolved.

9. In C.W.J.C. No. 3383 of 2024, this Court directed the Circle Officer, Basantpur, to decide Encroachment Case No. 1 of 2022-23 within one month. Thereafter, the Circle Officer, by order dated 20.03.2023, dropped the encroachment proceedings on the ground that the land had been released from acquisition and restored to the private respondent.

10. The appellant dispute the aforesaid finding and rely upon the acquisition records and a purported release notification dated 06.10.1976 produced by private respondent no. 9. They also refer to communications from the Land

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Acquisition Department questioning the authenticity of the said document, including the communication issued in response to the Circle Officer's letter dated 10.01.2022. The appellant further rely upon the land measurement report prepared in 2014 and the correspondence relating to the school's land records.

11. In these circumstances, the appellant filed C.W.J.C. No. 6814 of 2025 seeking an enquiry into the alleged release of the acquired land and consequential action regarding the encroachment. The writ petition was dismissed by the learned Single Judge by order dated 08.09.2025, the operative portion of the said order reads as follows:

> *"2. The petitioner claims to be a villager. He has filed the present declaratory writ application, praying for a direction to the respondents 2 to 5 to hold an enquiry on the basis of Annexures 9 and 10, for the land of Khata No. 66, plot No. 225, situated at mouza Basantpur, Police Station Basantpur, in the district of Siwan, which was released from the acquisition and returned to the original raiyat or not, acquired in the Proceeding No. 06 of 1966-67, Declaration No. 820, dated 25.05.1966 and published in the Gazette Part 2, dated 15.06.1966. It has further been prayed that if it is found that the land was not returned/released from the acquisition proceeding, then the respondent no. 2 be directed to take stringent action against respondent no. 7 for relying on the forged document and thereafter further direction be given to respondent no. 7 to remove the encroachment made by respondent no. 9 over*

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> *the land in question.*
> *...*
> *"5. On the other hand, learned Counsel for the State submits that without challenging the impugned order before the Collector, the petitioner has filed the present writ application. The present writ application is not maintainable before this Court.*
> *6. I have heard learned Counsel for the parties concerned and have gone through the materials available on record.*
> *7. By filing the present writ application, the petitioner is trying to settle the personal score with the respondent no. 9. The authorities of the State are not claiming the land to be the land of the State Government. In the opinion of the Court, the declaratory writ application of the nature cannot be maintained a the behest of a private party, who is having no connection with the land in question. The Writ Court is not a forum to settle the personal dispute between two private parties.*
> *8. Accordingly, I do not find any merit in this writ application."*

12. Learned counsel for the appellant submits that the learned Single Judge has failed to consider that the appellant was not party to the encroachment proceedings and, therefore, the order passed therein was not binding upon him. It is further submitted that any person aggrieved by encroachment upon public land and the resulting inconvenience is entitled to approach the competent authority for its removal.

13. Learned counsel further submits that the principal relief sought in the writ petition was for an enquiry into the

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genuineness of Annexures 9 and 10 and to ascertain whether the land in question, acquired for construction of Basantpur High School, had ever been released from acquisition. Despite the Land Acquisition Department having expressed doubts regarding the authenticity of the alleged release document, the issue has not been examined by the competent authorities.

14. Learned counsel further submits that the learned Single Judge has failed to consider the repeated representations made by the Headmaster of the school for removal of the alleged encroachment, as well as the measurement report of 2014, wherein private respondent no. 9 had relied upon a Sada Patta in support of his claim over the land. It is, accordingly, submitted that the question of whether the acquired land was ever released from acquisition ought to have been examined before the issue of encroachment was decided. The impugned order, having failed to consider the principal relief sought by the appellant, is therefore liable to be set aside.

15. Learned counsel for the respondents submits that no interference is warranted with the order passed by the learned Single Judge, as upon consideration of the materials available on record the learned Single Judge has rightly declined to grant any relief to the appellant.

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16. We have heard learned counsel for the parties and have also gone through the materials available on record.

17. The limited issue which arises for consideration before this Court is as to whether the order passed by the learned Single Judge suffers from any illegality, perversity or infirmity warranting interference in the appellate jurisdiction of this Court.

18. Upon consideration of the impugned order and the materials on record, it appears that the appellant had approached the writ court seeking an enquiry into whether the land in question, appertaining to Khata No. 66, Plot No. 225, situated at Basantpur, District Siwan, which was acquired for construction of Basantpur High School, had subsequently been released from acquisition and restored to the original raiyat. The appellant also sought consequential relief with respect to the alleged encroachment over the said land.

19. The learned Single Judge, however, has recorded that the State authorities are not claiming the land to be the property of the State Government and that the writ petition, in substance, seeks to resolve a dispute between private parties, without the petitioner having any established connection with the land in question. The writ court, therefore, declined to

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entertain the declaratory relief sought in the writ petition.

20. It is well settled that the extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India cannot ordinarily be invoked by a person who has neither suffered any legal injury nor demonstrated a sufficient interest in the subject matter, particularly where the relief sought would require adjudication of disputed rights between private parties.

21. In ***Jasbhai Motibhai Desai v. Roshan Kumar, reported in (1976) 1 SCC 671***, the Hon'ble Supreme Court has explained the principles governing locus standi under Article 226 of the Constitution of India. It has been held that, ordinarily, a person invoking the writ jurisdiction must demonstrate infringement of a legal right or prejudice to a legally recognised interest. However, this rule is not absolute, and even a stranger may maintain proceedings where he has a substantial and genuine interest in the subject matter. The relevant portion of the said order reads as follows:

> *"33. This Court has laid down in a number of decisions that in order to have the locus standi to invoke the extraordinary jurisdiction under Article 226. an applicant should ordinarily be one who has & personal or individual right in the subject-matter of the application, though in the case of some of the writs like habeas corpus or quo warranto this rule is relaxed or modified. In other words, as a general rule, infringement of some legal*

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right or prejudice to some legal interest inhering in the petitioner is necessary to give him a locus standi in the matter.

34. The expression "ordinarily" indicates that this is not a cast-iron rule. It is flexible enough to take in those cases where the applicant has been prejudicially affected by an act or omission of an authority, even though he has no proprietary or even a fiduciary interest in the subject-matter. That apart, in exceptional cases even a stranger or a person who was not a party to the proceedings before the authority, but has a substantial and genuine interest in the subject-matter of the proceedings will be covered by this rule. The principles enunciated in the English cases noticed above, are not inconsistent with it.

..

38. To distinguish such applicants from 'strangers', among them, some broad tests may be deduced from the conspectus made above. These tests are not absolute and ultimate. Their efficacy varies according to the circumstances of the case, including the statutory context in which the matter falls to be considered. These are: Whether the applicant is a person whose legal right has been infringed? Has he suffered a legal wrong or injury, in the sense, that his interest, recognised by law, has been prejudicially and directly affected by the act or omission of the authority, complained of? Is he a person who has suffered a legal grievance, a person "against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to something? Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to

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> *object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction on the part of the authority? Is the statute, in the context of which the scope of the words "person aggrieved" is being considered, a social welfare measure designed to lay down ethical or professional standards of conduct for the community? Or is it a statute dealing with private rights of particular Individuals?"*

22. In the present case, the appellant have not demonstrated any personal legal right in the land in question. Though they allege that the encroachment has obstructed the access road to Basantpur High School and refer to representations made by the Headmaster, the State authorities are not claiming the land to be Government land, as recorded by the learned Single Judge. The principal relief sought by the appellant would, therefore, require an enquiry into the alleged release of the acquired land and the competing claims of private respondent no. 9, on the basis of documents whose genuineness is disputed. Such an enquiry, in the absence of a demonstrated legal interest on the part of the appellant or a properly established public cause warranting the exercise of writ jurisdiction, cannot be directed merely at the instance of a private individual.

23. The fact that the appellant was not party to the

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encroachment proceedings does not, by itself, entitle him to maintain the writ petition. Equally, the allegation that the release document is forged or fabricated cannot be treated as established merely because its genuineness has been questioned by an authority. The appellant has not demonstrated any sufficient ground to displace the findings recorded by the learned Single Judge.

24. In view of the aforesaid facts and the settled principles of law, this Court finds no illegality, perversity or infirmity in the order passed by the learned Single Judge warranting interference in the appellate jurisdiction of this Court. The issue is accordingly answered against the appellant.

25. Accordingly, the present *intra* court appeal stands dismissed.

26. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

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