

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18476 of 2023

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Gaurab Gautam Son of Late Ashutosh Kumar Singh Resident of Ward No. 21,
Ratanpur, P.S and Town- Towa, District Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Begusarai.
3. The Sub Divisional Magistrate, Begusarai.
4. Circle Officer, Begusarai, District- Begusarai.
5. Begusarai Municipal Corporation through its Mayor.
6. The Mayor, Begusarai Municipal Corporation, Begusarai.
7. The Additional Municipal Commissioner, Begusarai Municipal Corporation, Begusarai.
8. Sri Lal Bahadur Singh S/o Late Rambahadur Singh, Resident of in front of St. Josef School, Ritlal Singh Road, Kali Nagar, Ratanpur, District- Begusarai.
9. Sri Asit Kumar S/o Sri Sachidanand Singh. resident of in front of St. Josef School, Ritlal Singh Road, Kali Nagar, Ratanpur, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Dubey, Advocate Mr. Kumar Gaurav, Advocate Ms. Sheshadri Kumari, Advocate
For the State	:	Mr. Standing Counsel 8

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 20-07-2026 Heard Mr. Ranjan Kumar Dubey, learned counsel for

the petitioner, Mr. Anil Kumar Singh representing respondent

nos. 8 and 9 and the learned counsel representing the State.

2. The present petition has been preferred for the grant

of following relief/s:

*(i) for issuance of writ in the nature of
mandamus directing the official*



respondents to not make any type of construction work of road over raiyati land of petitioner bearing Khata No. 400, Plot No. 283 and Khata No. 403, Plot No. 284 which in possession of petitioner and his family members for more than 60-70 years in the knowledge of all and even the official respondents wants to make any type of construction work over raiyati land then firstly they may acquire the land of petitioner in accordance with law, give adequate compensation then only proceed with construction work.

(ii) for issuance of writ in the nature of command restraining the respondents from making any type of construction work over raiyati land of petitioner till final disposal of this writ petition.

(iii) for issuance of any other writ/writs, order/orders for which petitioner deemed entitled to.



3. The matter relates to the land details which stands incorporated in the prayer portion of the writ petition and needs no repetition. The petitioner claims that an agreement was signed on 09.04.2003 between co-sharers leaving some road in Plot Nos. 283 and 278 to be used by all the co-sharers.

4. The contention is that in the year 2011, the Municipal Authority tried to construct road over the kaccha area that was left as a private road which forced the petitioner and his two brothers namely, Aditya Gatuam and Saurabh Gautam to move before this Court in CWJC No. 16940 of 2011 and on the assertion of the Municipal Authorities that they are not going to make any construction on the raiyati land of the petitioner, vide an order dated 31.07.2013, the writ petition was disposed of.

5. Further, the petitioner who is now alone fighting the battle alone, his two brothers namely, Aditya Gautam and Saurabh Gautam are neither in the list of the petitioners nor respondents contend that for 10 years, the respondents sat over the matter and now a notice has been issued by the Circle Officer, Begusarai on 17.05.2023 asking them to appear with relevant documents relating to Plot No. 283 and 284.

6. A perusal of the notice vide Memo No. 1278 dated 17.05.2023 issued by the Circle Officer, Begusarai would show



that it came to be noticed on the petition preferred by the respondent nos. 8 and 9 namely, Lal Bhadur Singh and Sachidanand Singh.

7. The contention is that they filed their show cause but no final order has been passed and in the meantime, the Municipal Corporation, Begusarai started demarcating the land to construct the road, they filed petitions before the Corporation as also the Collector and then the writ petition.

8. A counter affidavit of the State respondent nos. 2 to 4 has come duly signed by the Circle Officer, Begusarai and the stand of the State is that it is for the Municipal Corporation, Begusarai to clear the position so far as the construction of the road and so far as the notice part is concerned, the contention is that the State Government has issued direction to all the Circle Officers and Station Head Officers of Police Station to organize Janta Darbar to amicably settle the dispute and in continuation of that, on the petition preferred by the respondent nos. 8 and 9, the notice was issued.

9. So far as the Municipal Corporation is concerned, there is no representation.

10. It is to be noted that this time, the respondent nos. 8 and 9 were agile and though no notice issued, they are



represented in this writ petition through Mr. Anil Kumar Singh and have also filed a comprehensive counter affidavit. The sum and substance of the affidavit is that though the petitioner is harping on the agreement dated 09.04.2003, the development that took place thereafter has been deliberately left out inasmuch, as his father namely, Ashutosh Kumar Singh executed another agreement on 09.04.2004 with Smt. Renu Singh, wife of late Shyam Narayan Singh for the exchange of lands and as per the agreement, while Renu Singh gave 2 katthas 2 dhurs of land from her plots, in exchange, Ashutosh Kumar Singh also transferred 2 kathas 2 dhurs so that a common road can be left out for the use of both the parties to have access with the main road i.e. G.D. College Road.

11. The further contention is that the mother of the respondent no.9, Dr. Manju Singh also purchased the land from Smt. Renu Singh and this entitled her to use the common road. Suppressing all these facts/developments in the earlier writ petition CWJC No. 16940 of 2011 and without impleading them as party respondents, an undertaking was taken from the Corporation which followed the disposal of the writ petition.

12. With the help of the sketch maps, learned counsel for the respondent nos. 8 and 9 submit that they complained



before the Municipal Commissioner, Begusarai regarding the encroachment regularly being made by the petitioner with prayer to remove the same. Another application was given before the Sub-Divisional Magistrate, Begusarai and the report dated 18.05.2023 submitted by the concerned Police Station clearly recorded that the petitioner along with brothers are creating trouble and obstructing the road.

13. The submission is that in that background, the Circle Officer, Begusarai issued notice which is perfectly justified and the writ petition is fit to be dismissed for suppression of facts and non-joinder of necessary parties as the two brothers of the petitioner, Gaurab Gautam are not either in the list of petitioners and/or respondents.

14. Having heard the parties, this Court has noted that the counter affidavit of the respondent nos. 8 and 9 have been served upon the petitioners long ago and there is no reply to it. Thus they have accepted the contention put forward by the respondents about the subsequent development which shows that the area in question is/are being used by all the parties including the petitioner/brothers and the respondent nos. 8 and 9. Clearly, the petitioner suppressed all these facts and despite the writ petition filed in the year 2023, chose not to make the



amends.

15. In that background, when the facts have been brought on record by the respondents, there is suppression of facts, and non-joinder of necessary parties in the writ petition, no relief can be extended to anyone, much less the petitioner.

16. The facts have been recorded, the contention also stands incorporated. This takes the Court to only one conclusion, the writ petition is fit to be dismissed with cost.

17. Accordingly, ordered.

18. The writ petition is dismissed with a cost of Rs.2,000/- to be deposited with the Patna High Court Legal Services Committee within four weeks. Failure to do so, appropriate steps be taken for realisation of the amount in accordance with the law.

(Rajiv Roy, J)

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