

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.391 of 2026

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1. Upendra Prasad @ Upendra Mahto S/o Late Balgovind Prasad @ Balgovind Mahto, Resident of Village-Hussain Abad, P.S.-Aryari, Dist.-Sheikhpura.
 2. Janardan Prasad, S/o Late Basudeo Prasad @ Basudeo Mahto, Resident of Village-Hussainabad, P.S.-Aryari, Dist.-Sheikhpura.
 3. Gita Devi, W/o Ramanand Prasad, Resident of Village-Hussainabad, P.S.-Aryari, Dist.-Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
3. The District Magistrate, Sheikhpura.
4. The Circle Officer, Aryari Circle, Dist.-Sheikhpura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Adv. Mr. Sanjay Kumar, Adv.
For the Respondent/s	:	Mr. Nagendra Pd. Yadav, SC -23 Mr. AC to SC 23

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

4 23-07-2026 Heard learned counsel for the petitioners and learned
counsel for the State.

2. The writ application has been filed for the
following relief(s):-

(i) That the instant writ application is being filed by the petitioner for issuance of appropriate writ/writs, order/orders, direction/ directions for quashing the order of Respondent circle Officer, who U/S 5(1) of the Bihar Public



Land Encroachment Act, 1956, contained in a notice U/s 6(2) of the act in Encroachment Case No. 42/2020-21(Annexure- 2 series) by which the respondent circle officer has illegally declared the admitted exclusive raiyati land of petitioners in peaceful right, title and possession since about 80 years having Khata No.231, Kheshra No.1518, Thana No.192, Area- 35 decimal, Mauza Hussainabad, Dist. - Sheikhpura, as a public land and after declaring the raiyati land of petitioners as public land, the respondent circle officer, who with malafide intention of ulterior motive of harassing attitude and without following the rule of natural justice and relevant provision of law, has directed the petitioners to remove encroachment from the said raiyati land of petitioners with constructed pakka house within 14 day, failing which action u/s 188 of the Act will be taken with the cost.

And/or

The petitioners further requires an order of this Hon'ble court, directing the respondent concerned to not interfere the petitioners in any manner in the peaceful right, title and possession over the admitted exclusive raiyati land with constructed house of petitioners of more than 80 years having Khata No.231, Kheshra No.1518, Thana No.192, Area- 35 decimal, Mauza -Hussainabad, Dist. Sheikhpura, which has exclusively been acquired by the predecessor - grandfather of the petitioners through the valid Hukumnama dt.13/12/1942, executed/settled by the then Ex-landlord/Ex-Zamindar in favour of Narayan Mahto, the grandfather of the petitioners and as per and in accordance to clause 3(ii) Kha of the



Govt. resolution, circulated vid memo No. 925 dt. 11/11/2014, the said acquired gairmazrua malik land is the exclusive raiyati land of the petitioners. And accordingly on the very basis of the said executed valid Hukumnama of Gairmazura Malik Land, the relevant Jamindari revenue receipt/Jamindari Malguzari and Bihar Govt. Revenue receipt have been granted having Jamawandi No.1120, initially in favour of the Petitioners' grandfather Narayan mahto and subsequently in the name of his two sons namely Vasudeo Prasad and Balgobind Prasad, the father of petitioner No.1 and Petitioner No.2 respectively, till date.

3. Learned counsel for the petitioners submits that this case was taken up on 12.05.2026 and following orders were passed.

Counsel for the petitioners, by referring to the statement made in Paragraph 10 of the writ application, submits that on the basis of a valid Hukumnama dated 13.02.1942, the petitioners are in possession of the land in question, which is said to have been mutated and in respect of which an appropriate Jamabandi has been created in the name of the petitioners' grandfather, namely, Narayan Mahto. It is further submitted that, ignoring such revenue records, proceeding under the Bihar Public Land Encroachment Act, 1956 have been initiated, and despite the revenue records showing the petitioners' bona fide claim having been appended to the writ petition as Annexure-P/2 series, the



authorities have proceeded to demolish the house standing on the land in question.

2. In order to buttress his submission, counsel for the petitioners has relied upon the judgment dated 07.01.2015 passed by the Hon'ble Division Bench of this Court in LPA No. 1696 of 2014 and submits that long standing Jamabandi cannot be interfered in a proceeding initiated under the Bihar Public Land Encroachment Act, 1956 while the proper remedy before the authorities are to approach the competent court of civil jurisdiction and, instead taking such recourses as provided in law, by exercising excessive jurisdiction, the authorities have sought to initiate proceeding and consequential notice under Section 6(2) of the Bihar Public Land Encroachment Act, 1956, to demolish their houses.

3. The State is directed to take instruction as to how such proceedings have been initiated ignoring the revenue records which shows Jamabandi standing in favour of the petitioner.

4. Post this case on 22.06.2026. 5. It is expected that till next date of hearing, the status quo as on today shall be maintained and after verifying the revenue records, appropriate affidavit shall be filed by the next appointed day.

4. In view of the order passed on 12.05.2026, counter affidavit has been filed on behalf of respondent Nos.3 and 4, learned counsel for the State by referring to Para 6 and 7 of the counter affidavit submits that case of these petitioners have been



examined in reference to the revenue records and an enquiry was conducted, pursuant to which a report was submitted, the reference of which, is reproduced hereunder:-

That it will be important to mention here that on the basis of written complaint of One Akhilesh Kumar, S/o Kapil Mahto, R/o Village + P.O.- Hussainabad, P.S.- Ariyari, District- Sheikhpura with respect to encroachment of land situated in Mauza- Hussainabad, Thana No.-192, Khata-231, Khesra- 1518, Area-58 decimal, Nature-Gairmazaura Malik was given to authorities concerned and for which Encroachment Case No. 42 of 2019-20 was initiated by the then Circle Officer and notices were served upon the petitioners and others and thereafter they produce a copy of Hukumnama, Rent Receipts and copy of Register-II and after hearing and verification of this it was found that Jamabandi standing was in name of Revenue Register-II in the Balgovind & Basudev Mahto, Father of petitioners and so proceeding was the encroachment stopped and against which Akhilesh Kumar filed C.W.J.C. No.-5318/22 in which after hearing justice Mohit Kumar Sah passed an order to dispose of the Encroachment Case within 12 weeks according to law vide order dated 21.07.2022 but no action was taken by the then Circle Officer and the matter was kept pending and as the matter came into cognizance of present Circle Officer (Respondent No.-4) called for a report from Anchal the Amin and Revenue Karamchhari regarding present status of the land in question.



5. Learned counsel for the petitioners submits that now, the authorities have recognized the Hukumnama which was produced along with the rent receipt and copy of the registration and therefore, necessary directions may be issued to the Circle Officer, Aryari Circle, Sheikhpura to conclude the proceedings in accordance with law and as such the order contained in Annexure-7 as Memo No.215 dated 17.04.2026 passed by the SDO, Sheikhpura for deployment of Magistrate and police force may be set aside.

6. On the other hand, learned counsel for the State submits that since the enquiry has been conducted with regard to the claim of the petitioners, and appropriate directions may be issued by setting aside the order passed.

7. In view of the stand taken by the parties, this Court directs the Circle Officer to conclude the proceedings initiated vide Encroachment Case No.42 of 2019-20, referring to the stand taken in para 6 of the counter affidavit and the order for deployment, which is said to have been made on the request of Circle Officer, pursuant to order dated 17.04.2026 contained in Memo No. 215 having been issued, without awaiting final order passed in encroachment case is accordingly set aside and proceedings are directed to be concluded in accordance with



law.

8. With the aforesaid observations and directions, the writ petition stands disposed of.

(Ajit Kumar, J)

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