

(2021) 01 PAT CK 0109

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 12023 Of 2018

Akhilesh Kumar

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision: Jan. 19, 2021**Hon'ble Judges:** Sanjay Karol, CJ; Prabhat Kumar Singh, J**Bench:** Division Bench**Advocate:** Dinu Kumar, Arvind Kumar Sharma, Md.Khurshid Alam, Sarvendra Kumar Verma, Shashank Shekhar Jha, Jai Vardhan Narayan, Mrityunjay Kumar**Final Decision:** Disposed Of

Judgement

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

For issuance of a writ in the nature of mandamus directing and commanding the respondents to remove encroachment made over public land

Gair Majarua Aam in nature (Government land) containing Khata No. 769, Khesra/Plot No. 1220, 1323, 1364 & 1419 situated within old Mauja

Mainpura, Thana No. 2 presently situated at northern side of east Patel Nagar, Road No. 1 2 & 3 ensuring the order passed by the Hon'ble Apex

Court in Civil Appeal No. 1132/2012 arising out of SLP No. 3109/2011 Jagpal Singh & Ors. Vs. the State of Punjab & Ors. reported in 2011 (11)

SCC 396 as also to stop on going encroachment being made upon public (Government) land Gair Majarua Aam in nature over Khata No. 769,

Khesra/Plot No. 1364 situated at northern side of East Patel Nagar, Road No. 2, Near Panchmandir and for a direction to conduct enquiry against the

role attributed by the District Patna, Magistrate, Patna, SDO Sadar, Patna, Circle Officer, Sadar Patna, Station House Officer, Shastri Nagar Police

Station, Patna who have not complied/carried out the order/direction passed by the Hon'ble Supreme Court in the case of Jagpal Singh & Ors. Vs.

The State of Punjab & Ors. reported in 2011 (11) SCC 396 by not removing the encroachment from the public land bearing No. 769, Khesra/Plot No.

1220, 1323, 1364 & 1419 rather in their protection allowing the encroachment presently over khesra/plot No. 1364 at the northern end of East Patel

Nagar, Road No. 2, near Panchmandir which protection is being given by the Station House Officer, Shastri Nagar Police Station, Patna and/or for

issuance of an appropriate writ/order/direction for which the petitioner may be found legally entitled to under the facts and circumstances stated

hereunder.â€

We are of the considered view that interest of justice would be best served, as also prayed for by learned counsel for the parties, if the District

Magistrate, Patna were to consider and decide the petitioner's request (Annexure-2) expeditiously and preferably within a period of three months.

Shri Dinu Kumar, learned counsel for the petitioner, states that within a period of two weeks from today, petitioner shall place additional material

supplementing the averments made in the petition.

It is pointed out that the Deputy Commissioner has to take appropriate action in terms of the directions issued by Honâ€™ble the Apex Court in the

case of Jagpal Singh & Ors. vs. The State of Punjab & Ors. reported in 2011 (11) SCC 396.

Without expressing any opinion with regard to binding effect of the ratio laid down by Honâ€™ble the Apex Court with respect to the instant facts on

the parties, we only hope and expect that all these aspects shall be considered by the appropriate authority.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the

parties and order assigning reasons communicated.

Liberty reserved to the petitioner to approach the Court, if the need so arises subsequently on the same and subsequent cause of action.

We have not expressed any opinion on merits. All issues are left open.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree

to meet in person i.e. physical mode.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.