

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.125 of 2023**

**In
Civil Writ Jurisdiction Case No.5610 of 2023**

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Kamlesh Kumar Singh, Son of Umashankar Singh, Resident of Village-
Tetariya Laheri, P.S.- Kochas, District- Rohtas.

... .. Petitioner

Versus

1. The State of Bihar through the District Magistrate, Rohtas at Sasaram.
2. The District Magistrate, Rohtas at Sasaram
3. The Sub Divisional Magistrate, Sasaram.
4. The Circle Officer, Kochas Rohtas.
5. The Additional Principal Secretary, Road Construction Department,
Government of Bihar, Patna.
6. The Executive Engineer, Road Construction Department, Kochas, District-
Rohtas.

... .. Opposite Parties

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Appearance :

For the Petitioner : Mr. Shivendra Kishore, Senior Advocate
Mr. Jay Prakash Singh, Advocate
For the State : Mr. Arun Kumar Bhagat, AC to AAG-12

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)**

Date : 25-11-2025

Heard Mr. Shivendra Kishore, learned Senior Counsel
assisted by Mr. Jay Prakash Singh, learned counsel for the
petitioner and Mr. Arun Kumar Bhagat, learned AC to AAG-12 for
the State of Bihar.

2. This review application has been preferred seeking
review of the judgment dated 21.04.2023 passed in CWJC No.
5610 of 2023 by the Hon'ble Division Bench of this Court.



3. It appears that the petitioner had earlier moved this Court by filing a writ application in form of a Public Interest Litigation (PIL) giving rise to CWJC No. 5610 of 2023 with a prayer for the following reliefs:-

“For the issuance of a writ of Mandamus, and/or any other appropriate writ, direction/order commanding the respondents, particularly the respondent Nos. 2, 5 and 6 to remove the gate, demolish the newly constructed boundary wall and allow the general public, including the students, teachers and staff of the Educational Institute situated at Mauja-Kochas, Thana No. 285, Khata No. 93 Plot No.1506 situated at Kochas, District-Rohtas.

(ii) For the issuance of a writ of mandamus and/or, any other writ/direction/order commanding the respondents to ensure smooth flow of traffic to and through the road leading to the Swami Vivekanand Private Industrial Training Institute, Kochas, Rohtas, from the main road leading to the institute and beyond so that the general public of the locality does not suffer any inconvenience.

(iii) For issuance of any other writ/order/direction to grant all consequential relief to the petitioner in



the facts and circumstances of the case.”

4. In the writ application, the petitioner claimed that he is a farmer and a social-activist of the Rohtas District. From the averments made in the writ application, it would appear that the petitioner has explained the geographical boundary of the locality of Kochas. According to him, it is a semi-urban locality situated on the Sasaram-Buxar highway. In the year 2002, the State of Bihar through its Road Construction Department acquired part of the land situated at Mauza Kochas bearing Thana No. 285, Khata No. 93, Plot No. 1506. Admittedly, while part of the land of Plot No. 1506 situated at the eastern flank of Buxar-Sasaram State Highway was acquired by the Respondents, the other part was sold by the land owner to the several private individuals who constructed residential houses on the same. The petitioner himself states in paragraph ‘4’ of the writ application that on the part of Plot No. 1506, a private residential school came up and began running successfully. The petitioner claimed that the plot owners who had purchased their plots for residential purposes had developed a nine feet wide road on Plot No.1506. This road, according to him, was connected to the Sasaram-Buxar Highway and the small locality that came up on Plot No. 1506 and other



neighbouring areas. He claimed that in the year 2008, the respondents tried to block this road by constructing a gate and a boundary wall against which the residents of the locality represented. We find from the array of parties that there is no private respondent in the writ application, however, a vague statement has been made in paragraph '6' of the writ application that the respondents tried to block this eight feet wide road by constructing a gate and a boundary wall. Who is this respondent is not known.

5. In the aforementioned background, the petitioner has further went on to explain that the Circle Inspector, Kochas had submitted a report to the effect that the eight feet wide road should be allowed to exist on Plot No. 1506 so that the general public of the locality and the students and teachers of the school can have access to the main road. The Respondent No. 4 i.e. the Circle Officer, Kochas agreed with the report of the Circle Inspector and wrote in this regard to the Respondent No. 3. After that report of the year 2008 of the Circle Inspector and the Circle Officer, what happened is not known. It is, however, evident from the averments made in the writ application that the dispute, if any, over the right to way was not over a government land or a public land. In fact, there is no whisper in the writ application that the report was made



in the year 2008 to allow existence of road on a public land. There is no averment in the writ application that any public land was encroached by any person. All that appears from the statements in the writ application that the petitioner who claimed himself a social worker took the cudgels on himself to file a writ petition in form of PIL to raise the grievance on behalf of the students and other stakeholders of an institute which had come up in the year 2015 in place of the residential school. Neither the said Industrial Training Institute nor any student or person of the locality is said to have raised any grievance before any competent authority or a competent court of law.

6. In the above-mentioned factual background, when the writ petition came to be considered by the Hon'ble Division Bench, the Hon'ble Division Bench passed an order whereunder the Court instead of issuing a Writ in the nature of Mandamus observed that the petitioner has remedy under the Bihar Public Land Encroachment Act, 1956 which provides remedy for removal of encroachment from public lands. The operative part of the judgment of the Hon'ble Division Bench of which review has been sought for read as under:-

“The petitioner has placed reliance on a report dated 01.03.2008 submitted by the Circle Inspector to the Circle Officer; and alleged acceptance of the said report in



communication of the Circle Officer (Respondent No. 4) to the Sub Divisional Magistrate (Respondent No. 3). These communications are alleged to be of the year 2008.

Based on alleged communications of the year 2008, this writ petition, by way of Public Interest Litigation, has been filed in the year 2023. Apart from the fact that there is shocking delay in approaching this Court, this Court would also observe that the alleged report of the Circle Inspector and communication of the Circle Officer, even if for the sake of arguments, are accepted by this Court to be correct, the same would have no significance today, 15 years later, with reference to the current situation in the locality.

The petitioner has remedy under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as "the Act"), which provides remedy for removal of encroachment from public lands. Section 4 of the Act allows an opportunity to the noticee (petitioner) to raise any defense which they could have raised if they were defendants in a properly framed suit for removal of encroachment. The Act also provides an opportunity of hearing under Section 5; as well as the consequences of nonappearance in the proceedings.

It is only after observing the above procedure that final order is to be passed by the Collector under Section 6 of the Act, either dropping the proceedings or passing



orders for ensuring removal of encroachment, damages or otherwise. The order of the Collector for removing encroachment is also subject to appeal under Section 11 of the Act. Section 13 of the Act also provides an opportunity of review in case of any mistake or error in the course of any proceedings.

The petitioner has also remedy under Section 133 Cr.P.C and other civil remedies, which he may avail in accordance with law.

The writ petition is dismissed.”

7. At this stage, instead of availing the remedy in accordance with law, the petitioner has sought to file a review application which is under consideration.

8. Mr. Shivendra Kishore, learned Senior Counsel for the petitioner has submitted that the Hon’ble Division Bench while considering the writ application has committed an error of record inasmuch as the Hon’ble Division Bench has observed that the PIL has been filed on the basis of an alleged communication of the year 2008, in the year 2023. Learned Senior Counsel submits that this is an error of record and it seems that the Hon’ble Division Bench was of the view that the petitioner had a cause of action in the year 2008 but he has moved this Court after a delay of 15 years. On this ground, review of the judgment has been sought for.



9. On the other hand, learned AC to AAG-12 for the State submits that there is no error apparent on the face of the record in the judgment of the Hon'ble Division Bench. The Hon'ble Division Bench never said that the petitioner had a cause of action in the year 2008 but he has availed his remedy in the year 2023. It is submitted that the judgment or order of the Court cannot be cited as giving rise to a cause of action to a party. In this case, the petitioner has moved this Court by way of PIL which is in the form of a non-adversarial litigation but as it appears now, the petitioner was, in the garb of PIL, trying to establish a right to way on a private land. He has, though, stated that he is a social-activist but his credibility itself is in doubt as he has not stated as to what kind of social activism he is doing and by such social activism what has been gained for the society. It is, thus, submitted that the review application is nothing but a frivolous and vexatious kind of litigation which has been filed only in order to obtain an *ex-parte* order against a person who is not even a party to the writ petition.

10. We have heard learned Senior Counsel for the petitioner and learned AC to AAG-12 for the State as also perused the records. The facts of this case are crystal clear. In the writ application, there is no averment that part of Plot No. 1506 on



which a residential school had come up is a public land. In fact, there is no statement that the said plot has been encroached upon. All that is stated in the writ petition is that part of Plot No. 1506 and other plots were acquired earlier and a nine feet wide road on Plot No. 1506 was developed for use of the locals. The petitioner has himself stated that on part of Plot No. 1506, a private residential school came up and began running successfully. Later on, an Industrial Training Institute was established on the said plot in the year 2015. The said Institute, its teachers, staffs or the students never approached any competent court of law raising any grievance alleging encroachment. It is definitely and admittedly a *raiya* land.

11. We regret to agree with the submissions of learned Senior Counsel for the petitioner that there is an error apparent on the face of the record. In fact, we called upon Mr. Shivendra Kishore, learned Senior Counsel to demonstrate from the averments made in the writ application that there is any statement as to what happened during the period 2008 and 2023 with respect to the land in question. No statement has been found in this regard and when this Court called upon learned Senior Counsel to demonstrate as to whether there is any statement that the land is in the nature of a public land, he has failed to demonstrate the same



from the pleadings available in the writ petition. Learned Senior Counsel has, thus, not been able to demonstrate that there is any error apparent on the face of the record.

12. We are of the opinion that by filing such frivolous and vexatious litigation seeking review of the order of the Hon'ble Division Bench of this Court and then insisting upon a submission that the order of the Hon'ble Division Bench suffers from an error of record, the petitioner has only wasted the Court's precious time.

13. We dismiss the review application with a cost assessed at Rs.25,000/- (Rupees Twenty Five Thousand) which will be payable by the petitioner within one month from today. The amount shall be deposited with the Patna High Court Legal Service Committee and receipt showing deposit of the amount shall be furnished to this Court, failing which the cost amount shall be realized from the petitioner in accordance with law.

14. This application is dismissed.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	26.11.2025
Transmission Date	

