

**IN THE COURT OF CIVIL JUDGE (Jr. Div.), DUMRAON**  
**Present:- Prateek Mishra, Civil Judge (Jr. Div.), Dumraon.**  
**Misc. Case No. - 05/2013**  
**CIS No. - 505/2013**

<b>Date of Order</b>	<b>Order with initials of the Court</b>	<b>Remarks</b>
<u>19.11.2025</u>	<p>Case is listed today for hearing on petition dated 16.09.2025 under Section 151 of CPC of applicant. Opponent has filed reply on 19.09.2025.</p> <p>On perusal of petition, it is noted that this Miscellaneous Case is arose from Execution Case No. 25/1986. Decree under reference has suggested that applicants are tenant of decree holder and amount of rent due against them. Decree is for eviction of tenant. However, on perusal of notice of CO, it appears that applicant are encroacher of Government land. Notice do specify that applicants have encroached government land by construction of three rooms on land under reference. It is pleaded that map and report from CO, Dumroan regarding western side boundary of Government land from inception up to pond on road namely old Bhojpur to Simri, may be sought.</p> <p>On perusal of reply dated 19.09.2025, it is noted that the opponents have objected on the ground that petition is not maintainable under law. Process in Execution Case No. 25/1986 is not stayed but delivery of possession has not been given to decree holder. In original suit Sitaram Yadav lost the case up to Supreme Court and said judgment shall operate as res-judicata against all judgment debtors and their successors. This suit is unnecessarily pending since 12 years. So many witnesses have been adduced. On completion of arguments this petition for measurement has been filed. Prayer has been made that this petition may be heard for as many years as pleased. As per mandates of Hon'ble High Court the Execution Case ought to be competed within 6 months but pending for 39 years</p>	

unnecessarily. Lastly, prayer has been made for disposal of petition so that Section 191(sic.) CPC could not be misused.

Heard the parties, perused the records. During hearing and in the reply, Ld. Counsel of opposite party has not submitted anything relevant in respect of notice of Circle Officer. Neither same has been denied nor any other explanation placed in that regard. This Court is of the view that execution case no. 25/1986 is pending since so many years but same is not a justification and/or reasoning for *in-limine* disposal of any petition of the applicant in this misc case. No material objection has been raised by the opponent. This Court is also of the view that it would not be in favour of propriety on the part of this Court, if by order of this Court any encroacher be removed and another encroacher be placed on government land, if that may be a case.

There is no objection on the part of the opposite party on the notice of Circle Officer. Said notice has been duly exhibited by applicant in this Miscellaneous.

In view of the above, it seems obligatory of the part of the Court to get report from Circle Officer Dumaron regarding status of land under dispute. The Office is directed to prepare a letter *inter-alia* specifying exact details along with boundaries of land under dispute, seeking status report from CO, Dumroan whether same is government land or not.

List on 26.11.2025 ..... for report of CO, Dumron.

(Prateek Mishra)  
Civil Judge (Jr. Div.), Dumraon