



2026:PATHC:48658-DB

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1003 of 2025
In
Civil Writ Jurisdiction Case No.6891 of 2022

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Prem Kumar Srivastava S/o - Late shambhoo Sharma Resident of village-
Kesariya Ward no 07, P.S.- Kesariya, P.O.- Kesariya East Champaran
(Motihari)

... .. Appellant

Versus

1. The state of bihar, through the Principal Secretary, Department of Land Reforms, Govt. of Bihar
2. The Secretary, Department of Health, Govt. of Bihar, Patna.
3. The District Magistrate, Motihari, East Champaran
4. The Circle Officer, Kesariya, East Champaran
5. The Medical Officer, Primary Health Centre, Kesariya, East Champaran.
6. The Civil Surgeon, Motihari, East Champaran

... .. Respondents

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Appearance :

For the Appellant/s : Mr. Prashant Sinha, Advocate
Mr. Rajneesh, Advocate
Mr. Rohan Verma, Advocate
For the Respondent/s : Mr. Standing Counsel (25)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 16-04-2026

The Letters Patent Appeal has been filed





challenging the order dated 01.09.2025 of the learned Single Judge in C.W.J.C. No. 6891 of 2022 giving liberty to the petitioner to approach the concerned authority/forum under the Bihar Public Land Encroachment Act, 1956/Bihar Land Dispute Resolution Act, 2009 for redressal of his grievance.

2. The writ petition was filed by the petitioner with a prayer for issuance of writ of mandamus, directing the respondents to remove the illegal encroachment and unauthorized construction of the boundary made by the Primary Health Centre, Kesaria over his private/khatiyani ancestral land of the petitioner appertaining to Khata No. 290, Khesra No. 1316, Area 0-02-18 (2 Katha 18 Dhurs) and Khesra No. 1318, Area 0-07-05 (07 Katha 5 Dhurs).

3. The case of the petitioner is that his ancestral khatiyani land situates beside the Primary Health Centre, Kesaria, East Champaran over which the petitioner has got right, title and peaceful possession since the time of his fore fathers. However, in the year 2015, the respondent authorities encroached upon the petitioner's land by constructing the boundaries and made some pucca construction over the land and even though the petitioner objected to such illegal construction, the respondent authorities threatened him to implicate in false





cases.

It is further case of the petitioner that the land is mutated in the name of the petitioner's grand father, late Rama Prasad and previously land receipt was being generated after payment of rent in the name of his grand father and the rent was paid up to 03.01.2022.

4. It is further submitted that though the petitioner sought for some information under R.T.I. and requested to furnish proof/evidence of the circumstances under which such construction is being carried out over his private land in the name of that Primary Health Centre, Kesaria; but only a vague reply was given.

5. All the more, upon the representation filed by the petitioner, a spot verification was done by the Halka Karmchari on 23.12.2019 who submitted a report to the concerned authorities but he was not supplied the copy of such report and no action/step was taken on such inquiry report.

6. Three counter affidavits were filed in the matter. The first and second counter affidavits were filed by the respondent no. 3, wherein the stand was taken that the Primary Health Centre, Kesaria is an old health centre running prior to 1950 and it was run by district board and the land under





possession of the Primary Health Centre, was never objected by any Raiyat and the petitioner raised his objection basing on a more than 100 years old Khatiyani and it is specifically denied that no portion of Plot nos. 1316 and 1318 had ever remained in possession of the petitioner and prior to the renovation of the structure of the Primary Health Centre, several inquiries were conducted and later renovation work was allowed.

It is further stated in the counter affidavit that since the prices of the land have increased, the petitioner has the greedy eyes for which he has preferred such writ petition.

7. Another detailed counter affidavit was also filed on 03.06.2025, wherein it is specifically stated as to how the petitioner was not entitled to get any relief as there is evidence of Health Centre existing since prior to 1950 and the document of donation has not been searched out. The boundary wall was constructed in the year 2011, since the land in question has been coming in peaceful possession of the Primary Health Center. It is further stated that right, title and dispute of possession cannot be adjudicated in the writ petition.

8. The petitioner also filed rejoinder affidavit to the counter affidavit which is dated 16.07.2025. The learned counsel for the State supported the impugned order and





submitted that since the nature of dispute is such that it cannot be adjudicated in exercise of the writ jurisdiction and it requires adjudication by competent court after taking oral as well as documentary evidence as well as assessing such evidence, therefore, the petitioner has been rightly asked to approach the concerned authority under the Bihar Public Land Encroachment Act, 1956/Bihar Land Dispute Resolution Act, 2009.

9. After hearing the learned counsel for the respective parties, and going through the nature of reliefs sought for by the petitioner in this case claiming his right, title and interest over Khata No. 290, Khesra No. 1316, Area 0-02-18 (2 Katha 18 Dhurs) and Khesra No. 1318, Area 0-07-05 (07 Katha 5 Dhurs), which is stated to be in the unauthorized possession of the Primary Health Centre and in view of the stand taken by the State in the counter affidavit, we are of the view that it requires assessment of oral as well as documentary evidence and therefore, the petitioner has to seek appropriate remedy in accordance with law for adjudication of the dispute; inasmuch as in exercise of the writ jurisdiction, such disputed question of facts, which requires elaborate examination of evidence, cannot be adjudicated. Accordingly, liberty is granted to the petitioner to approach the competent court for seeking appropriate remedy





in accordance with law.

10. Accordingly, the Letters Patent Appeal stands
dispose of.

11. Pending I/A, if any, stands disposed of.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

guddukr/-

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