



IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18817 of 2025

1. Rishi Raj Baitha son of Late Krishna Baitha, Resident of Village- Pyarepur, P.S.- Biakunthpur, District- Gopalganj.
2. Vishnu Baitha @ Bishnu Baitha, Son of Late Rambalak Baitha, Resident of Village- Pyarepur, P.S.- Biakunthpur, District- Gopalganj.
3. Yogendra Baitha, Son of Late Sipahi Baitha, Resident of Village- Pyarepur, P.S.- Biakunthpur, District- Gopalganj.
4. Gulteni Kunwar, Son of Late Mukun Kunwar, Resident of Village- Pyarepur, P.S.- Biakunthpur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Divisional Commissioner, Saran Division, Chapra.
3. The Collector-cum-District Magistrate, Gopalganj.
4. The Executive Engineer, Local Area Engineering Organisation (LAEO) Works Division, Gopalganj.
5. The Executive Engineer, Flood Control Division, Gopalganj.
6. The Circle Officer, Baikunthpur, District- Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Uday Pratap Singh, Advocate
For the Respondent/s : Mr. Government Pleader (24)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 24-11-2025 Heard Mr. Uday Pratap Singh, learned counsel for the
petitioners and the State.

2. The present petition has been preferred for the
following relief(s):

*“A. A writ in the nature of Certiorari or
any other appropriate writ for quashing the notice
dated 26.09.2025 in respect of all four petitioners,*





vide notice bearing Nos. 207, 208, and 210, whereby and whereunder the petitioners have been directed to remove temporary structures over the land bearing Khata No. 247, Khesra No. 1088 within three days of issuance, as an NOC has been given over the said land for construction of Pyarepur Panchayat Sarkar Bhawan.

[Annexure-P/4 Series]

B. A writ in the nature of Mandamus or any other appropriate writ/order/direction commanding the Respondents as under:

i. To direct the Respondent authorities not to construct Pyarepur Panchayat Sarkar Bhawan over the land of the Petitioners, which had been settled in their favour prior to independence by the ex-landlord, Hathua Raj, and where they are presently residing by constructing phus houses.

ii. To direct the Respondent authorities not to construct the Panchayat Sarkar Bhawan at the subsequently identified place chosen for political reasons, in complete disregard of the resolution of the Aam Sabha of Gram Panchayat





Raj Pyarepur.

iii. To hold that construction of Panchayat Sarkar Bhawan over the riverbed, just 300 meters away from the main flow of the Gandak River, is in complete violation of the directions of the State Government issued vide letter No. पत्रांक: क्ष. में.पं.स.भ. 823/2012-4951/प.रा. dated 21.08.2012.

C. For any other relief(s) to which the Petitioners may be found entitled.”

3. Learned counsel for the petitioners has straightaway taken this court to one of the notices (notice no. 208 dated 26.09.2025) issued to Yogendra Baitha to show that without any initiation of encroachment proceeding and/or order passed in it, a direction has been given to remove the temporary structure in three days or it shall be demolished.

4. Learned State counsel submits that the notice is dated 26.09.2025 and we are in the month of November, 2025 and there is no Interlocutory application to show that any further step has been taken by the Circle Officer, Baikunthpur, Gopalganj.

5. On query, learned counsel for the petitioners submit





that no encroachment proceeding was earlier initiated and straightaway, this notice has been issued.

6. Section 3 of the Bihar Public Land Encroachment Act, 1956 (for brevity, 'the Act') read as follows:

“3. Initiation of the proceedings.- (1) If it appears to the Collector from an application made by any person or upon information received from any sources that any person has made or is responsible for the continuance of any encroachment upon any public land, the Collector may cause to be served upon such person a notice in the prescribed form requiring him to appear on a date which shall not be less than two weeks from the date of service of notice to show cause:

*(a) Why he should not be restrained from making such encroachment by issue of injunctions;
or*

(b) Why such encroachment should not be removed.

(2) Under clause (a) of sub-section (1) the Collector shall have power to issue temporary





injunction at any stage to restrain such encroachment till the disposal of the proceeding or till further orders or he may pass such orders as he deems proper for preventing such encroachment:

Provided that where the encroachment on public land is in the nature of exposure of articles for sale, or opening temporary booth for vending, the Collector may without the formality of issuing a notice as required under sub-section (1) order for its immediate removal or cause it to be removed immediately and for the purpose he may use such force as is necessary in the case:

Provided further that where the encroachment on public land is of such a nature as the Collector considers its immediate removal essential for the safety of general public or for the safety of any other structure on the public land and the notice cannot be served without unnecessary delay upon the person responsible for the encroachment or his representative owing to his absence or for any other reason, he may order the removal of encroachment or if necessary cause it to





be removed immediately and may use such force for the purpose as is necessary.

(3) If the person who has made or is responsible for the continuance of the encroachment is not known or cannot be found, the Collector may cause notice to be affixed in the neighbourhood of the alleged encroachment requiring any person interested in the same to show cause by the date specified in the notice why the encroachment should not be removed and it shall not be necessary to name any person in such notice.”

7. It is the categorical submission of the learned counsel for the petitioners that before issuance of these notices, no encroachment proceeding was initiated and/or any order passed.

8. The Circle Officer, Baikunthpur seems to have crossed the limit in passing the order for the reasons best known to him/her.

9. Even if it is accepted that the petitioners are encroachers, he/she has to act in accordance with ‘the Act’ and not otherwise. Clearly he/she has misused the position he/she is





holding.

10. This Court has no option but to quash all the notices that have been issued against the petitioners allowing the Circle Officer, Baikunthpur, Gopalganj to issue fresh notices upon the petitioners in accordance with 'the Act' and after hearing all the necessary parties, has to take the proceedings to its logical conclusion by passing a reasoned order.

11. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

Adnan/-

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