

5021  
10/5/12

In the High Court of Judicature at Patna  
( Miscellaneous Judicial Jurisdiction)

M.J.C. No. \_\_\_\_\_ of 2012.

( Arising out of C.W.J.C. NO. 9489 of 2005)

Narayan Yadav .... Petitioner.

versus

The state of Bihar and others... Opposite parties.

Sub:- Contempt matter.

I n d e x

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| 1. Petition with Affidavit.  | 1- 9     |
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Vakalatnama.

...



1. The state of Bihar.
2. Upendra Kumar ,the District Magistrate, Madhepura
3. sanjay Kumar Nirala, the Sub- Divisional Officer,  
Madhepura.
4. Rohit Kumar Singh, the Anchal Adhikari, Madhepura.
5. Ajay Kumar, The Officer-in-Charge, Madhepura  
Police station- Madhepura.

... Contemnor ... Opposite parties.

To,

The Hon'ble Ms. Justice Rekha M. Doshit, the  
Chief Justice of the High Court of Judicature  
at Patna and her companion Justices of the said  
Hon'ble Court,

The humble petition on behalf  
of petitioner xabove named;

X

Most Respectfully sheweth:-

1. That through this application the petitioner prays for order or direction for ~~xxx~~ initiation of rule of contempt against contemnor - opposite parties for their willful and deliberate dis-obedience and non compliance of the Hon<sup>ble</sup> High Court order dated 3.11.2011 passed in C.W.J.C. no. 9489 of 2005 by the Hon<sup>ble</sup> Mr. Justice Ashanuddin Amanullah and for punishing the contemnor suitably for violating the direction/ order passed by this Hon<sup>ble</sup> court.

2. That the petitioner filed C.W.J.C. no. 9489 of 2005 for direction upon the respondent s, who are contemnor opposite parties in this applicatio to remove the encroachment from the public land made over khata no. 117 Khesra no. 895 , area 2600 sq. ft and 144 sq. ft. in village Shakarpura

under terms of the order dated ~~28~~ 29.8.03 passed by the respondent Sub- Divisional Officer contained in Annexure-3 of the writ petition.

3. That the aforesaid writ application bearing CWJC no. 9489 of 2005 filed by the petitioner was heard by the Hon'ble Mr. Justice ~~Ab~~bsanuddin Amanullah and thereafter his lordship by the order dated 8.11.11 directed the respondents- opposite parties " to ensure that no encroachment remains on the public land which is the subject matter of the present writ application. The respondent shall ensure that all necessary and required steps in accordance with ~~law~~ are taken and matters reach their logical ~~conclusion~~ at the earliest and within a period of two months ~~x~~ from the date of receipt production of this order on the concerned respondents.

A true photo copy of the order dated 8.11.11 passed in C.W.J.C. no.9489 /05 is annexed as annexure-1 to this petition.

4. That after passing of the aforesaid order by the Hon'ble Court the petitioner ~~xxxxx~~ through his representation tried to bring the same to the notice of the respondents concerned but no respondent received the same and as such the petitioner through ~~x~~ the registered post dated 4.1.12 sent the petition annexing photo copy of the Hon'ble Court order to all the respondents.

A true photo copy of the petition with receipt of ~~xxxxxxxxxxxx~~ registration is annexed as annexure -2 to this petition.

5. That as directed in the Hon'ble Court order when no action taken by the opposite parties to

comply the order of Hon'ble Court, then the petitioner on 5.3.2012 once again intimated the sub-Divisional Officer-O.P. no.-3 but no steps taken ~~up~~ over the same.

A true photo copy of the petition dated 5.3.2012 is annexed herewith and marked as annexure- 3 to this petition.

6. That after the aforesaid communication, the petitioner on the ~~xxx~~ advice of his counsel met the opposite party and gave ~~petition~~ intimation about the order passed by this Hon'ble court but no receiving of the same was given to the petitioner.

7. That it is stated and submitted that ever after six months of passing of the order by the Hon'ble Court the Contemnor,- Opposite

parties are taking no action to comply the same which is apparent case of wilful ~~and~~ deliberate disobedience and violation of the order of this Hon'ble Court by the opposite parties.

8. That thus for the wilful disobedience and non-compliance of the order of Hon'ble Court, the contemnor-opposite parties are liable to be punished.

9; That in very special and compelling circumstances, the petitioner has been filing the instant contempt petition against the opposite parties.

10. That the petitioner has not moved any contempt application before this Hon'ble court against the order dated 8.11.11. passed in C.W.J.C. no. 9489 of 2005.



It is, therefore, prayed that your Lordships may graciously be pleased to admit this application issue ~~Rule~~ Rule of Contempt against the opposite parties and after hearing ~~the~~ them be further pleased to punish the Contemnor, - Opposite parties for their wilful disobedience of the order dated 8.11.11. passed in C.W.J.C. no.9489/05 and to undo injustices being caused to the petitioner and further command them to discharge their duties according to the direction of this Hon'ble Court.

And/or

may pass such other order/ orders as your Lordships may deem fit and proper;

And for this the petitioner shall ever pray.

Affidavit.

I, Narayan Yadav, aged about 52 years, son of Late Gukhdeo Yadav, resident of village- Shakarpura, P.S.- and District- Madhepura, do hereby solemnly affirm and state as follows:-

1. That I am petitioner in this case and as such am well acquainted with the facts and circumstances of the case.

2. That the contents of this affidavit and petition have been read over and explained to me in Hindi which I have fully understood the same, they are true to my knowledge and belief.

3. That the annexures are photo/true copies of its respective originals.

IN THE HIGH COURT OF JUDICATURE AT PATNA  
CWJC No.9489 of 2005  
Narayan Yadav Son of Late Sukhdeo Yadav, resident of  
Village- Shakarpum, P.S. and District- Madhepura.  
Versus

1. The State of Bihar
2. The District Magistrate, Madhepura.
3. The Sub-Divisional Officer, Madhepura.
4. The Anchal Adhikari, Madhepura.
5. The Officer-in-Charge, Madhepura Police Station, Madhepura.
6. Kusheshwar Sah.
7. Brahamdeo Sah.
8. Maheshwar Sah.
9. Jugheshwar Sah.
10. Sukhdeo Sah.

All are sons of Late Ramkishna Sah residents of Village- Shakarpura, P.S. and District- Madhepura.

11. Most. Durga Devi W/O Late Bisheshwar Sah resident of Village- Shakarpur, P.S. and District- Madhepura.
12. Binay Choudhary Son of Kusheswar Choudhary resident of Village- Shakarpura, P.S. and District- Madhepura.

2. 08.11.2011

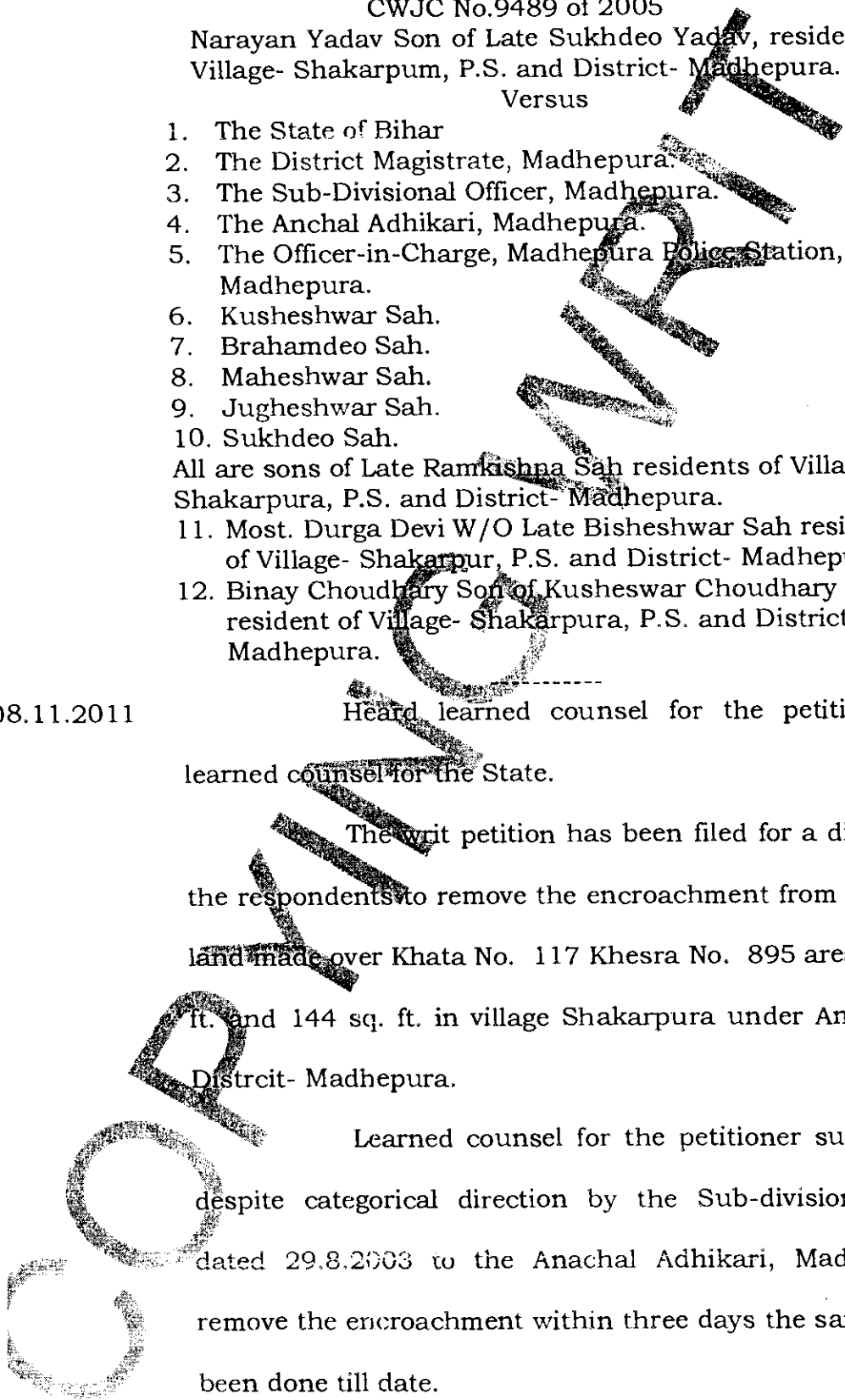
Heard learned counsel for the petitioner and learned counsel for the State.

The writ petition has been filed for a direction to the respondents to remove the encroachment from the public land made over Khata No. 117 Khesra No. 895 area 2600 sq. ft. and 144 sq. ft. in village Shakarpura under Anachal and District- Madhepura.

Learned counsel for the petitioner submits that despite categorical direction by the Sub-divisional Officer dated 29.8.2003 to the Anachal Adhikari, Madhepura to remove the encroachment within three days the same has not been done till date.

Learned counsel submits that as per up to date

RECEIVED  
 08.11.2011  
 K.R. Singh  
 P.No. 4957/11



instructions, the same situation prevails and the encroachment has not been removed. This Court expresses its deep displeasure at the inaction of the respondents in not removing the encroachment from public land in spite of their own order.

In view of the aforesaid, this Court directs the respondents to ensure that no encroachment remains on the public land which is the subject matter of the present writ application. The respondents shall ensure that all necessary and required steps in accordance with law are taken and matters reach their logical conclusion at the earliest and within a maximum period of two months from the date of receipt/production of a copy of this order on the concerned respondents.

With the aforementioned directions the writ petition stands disposed off.

*sh/-*  
(Ahsanuddin Amanullah, J.)

Anand Kr.

COPYING WRIGHT

CERTIFIED TO BE TRUE PHOTO COPY

*anand kr*

For Joint Registrar (J) 15/12-11  
Patna High Court

Authorized U/S 76 Act I of 1977

Rakesh Kumar  
TJ

15/12/2011

28/6/9433

R.L.No 591  
4-1-12

- सहायक
- अधीनस्थ प्रथम श्रेणी अधिकारी मधेपुरा
- अधीनस्थ पर्यवेक्षक अधिकारी मधेपुरा
- अधीनस्थ अधीकार मधेपुरा
- अधीनस्थ मधेपुरा

विषय :- माननीय उच्च न्यायालय के द्वारा

आदेश No 9489/2009 में दिनांक 8-11-2011 में कराई कि जांच के लिए अधिकतम 2 मई के अंदर मधेपुरा जिला क्षेत्र में मधेपुरा अंचल के राजदह गाँव सकारपुरा के शता संख्या 112 संख्या संख्या 895 के रकबा 2600 वर्ग मीटर एवं 145 वर्ग मीटर कुशेश्वर साह वगैरह आवेकमण किये हुए हैं। उरु शैली कराकर माननीय उच्च न्यायालय को अवगत कराये का है।

माननीय न्यायालय द्वारा पारित आदेश की आया प्रति अवलोकन हेतु संलग्न की जाती है।

दिनांक 04-1-2012

विकास भाजन  
नारायण यादव  
पिता - स्व. सुरेश्वर यादव  
ग्राम+पो - सकारपुरा  
अंचल - मधेपुरा  
जिला - मधेपुरा

बीमा नहीं NOT INSURED

ये गये डाक टिकटों का मूल्य रु० पे०

क्रमांक No. (13)

Count of Stamps affixed Rs. 22

रजिस्ट्री प्राप्त किया

Received a Registered

नेवाले का नाम

Address to

589  
तारीख मोहर

Date Stamp

4/1/12

पानवाले अधिकारी के हस्ताक्षर  
Signature of Receiving Officer

बीमा नहीं NOT INSURED

ये गये डाक टिकटों का मूल्य रु० पे०

क्रमांक No.

Count of Stamps affixed Rs. 22

रजिस्ट्री प्राप्त किया

Received a Registered

नेवाले का नाम

Address to

590

तारीख मोहर

Date Stamp

4/1/12

पानवाले अधिकारी के हस्ताक्षर  
Signature of Receiving Officer

बीमा नहीं NOT INSURED

ये गये डाक टिकटों का मूल्य रु० पे०

क्रमांक No.

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591

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Date Stamp

4/1/12

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592

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593

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4/1/12

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बीमा नहीं NOT INSURED

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क्रमांक No.

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रजिस्ट्री प्राप्त किया

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नेवाले का नाम

Address to

594

तारीख मोहर

Date Stamp

4/1/12

पानवाले अधिकारी के हस्ताक्षर  
Signature of Receiving Officer

अ नै क व र- 2 T. C.

सेवा में,

सचिव ,

राजस्व एवं भूमि सुधार बिहार पटना ,

जिला दंडाधिकारी मधेपुरा

अनुमंडल पदाधिकारी मधेपुरा

अंचल अधिकारी मधेपुरा

धाना अध्यक्ष मधेपुरा / मरहठी ।

विषय :- माननीय उच्च न्यायालय पटना के द्वारा सी.डब्लू.जे.सी. नं०  
9489/ 2005 दिनांक 8.11.2011 को आदेश दिया गया है  
कि अधिकतम 2 माह के अंदर मधेपुरा जिला अंतर्गत मधेपुरा अंचल  
के राजस्व गांव सकरपुरा के खाता संख्या 117 खेसरा संख्या 895 के रकवा  
2600 वर्ग फिट एवं 144 वर्ग फिट कुशीश्वरसाह बगैरह अतिक्रमण  
किये हुए है, उसे खाली कराकर माननीय उच्च न्यायालय को अवगत  
करानेका हूँ।

माननीय न्यायालय द्वारा पारित आदेश की छाया प्रति  
अवलोकन हेतु संकलन कीजाती है।

दिनांक 3.1.2012

विश्वास भाजन

नारायणयादव

पिता स्व० सुखदेव यादव

ग्राम पाँ० सकरपुरा ,

अंचल मधेपुरा ,

जिला मधेपुरा ।

संका में -

अनुमंडल पदाधिकारी मधेपुरा

विषय : माननीय उच्च न्यायालय परना के द्वारा (W.P.C No 9483/2005 में जारी आदेश के अनुपालन के संबंध में ;

प्रसंग : मेरा आवेदन पत्र दिनांक 03-01-2012

महाशय :

सादर सूचित करना है कि माननीय उच्च न्यायालय परना द्वारा दिनांक 04.11.2011 को आदेश जारी करने से संबंधित मामला का मैंने एक आवेदन पत्र माननीय उच्च न्यायालय द्वारा जारी आदेश की वसति प्रती के अनुसार किया था। जिससे नारुश होकर धारिताहीन आदिम जमीन से खटे मेरे कुचों को धारिता कर दिये हैं। जिससे पानी का रोकट हो गया है तथा आपस में तनाव की स्थिति हो गई है।

अतः पूर्व में मेरे द्वारा दी गई आवेदन पत्र की वसति प्रती एवं माननीय उच्च न्यायालय परना द्वारा दिनांक 8.11.2011 को जारी आदेश के अंतर्गत कर अनुरोध करना है कि न्यायिक शक्ति कराने की कृपा की जाय ताकि तनाव की स्थिति शांत हो जाय एवं विधि व्यवस्था की स्थिति उत्पन्न हो सके।

दिनांक DS 03.2012

विशाल भाजव  
गाराशान गारुत  
पिन - ख. सुकेश चार्क  
ग्राम + पो - लकरपुरा  
अंचल - मधेपुरा  
(हस्ताक्षर)



15

Textes: 1202-30111301 ON WWW.INDIAPOST.GOV.IN



RL MADHEPURA MDG 552113  
A. 5553  
Counter No.1, CP-Coolest PDM  
To: ANJANANDA, PADACHIKARI  
Madhepura S.O, PIN: 852113

Wt: 20grams  
Amt: 22.00 10/03/2011 10:18

भारतीय डाक  
15

अ नै कष र - 37. c.

हैवा मे,

अनुमंल पदाधिकारी मधेपुरा ।

विषय :- माननीय उच्च न्यायालय पटना के द्वारा सी.डब्ल्यू.जे. सी. नं० 9489/ 2005 मे पारित आदेश के अनुपालन के संबंध मे।

पुस्तंग :- मेरा आवेदन पत्र दिनांक 3.1.2012 ।

महाशय ,

सादर सूचित करना हैकि माननीय उच्च न्यायालय पटना द्वारा दिनांक 8.11.2011 को अतिक्रमण खाली कराने से संबंधित पारित आदेश का मैंने एक आवेदन पत्र माननीय उच्च न्यायालय द्वारा पारित आदेश की छाया प्रति के साथ समर्पित किया था । जिससे नारायण हांकर पुत्रिवादी गण अतिक्रमण जमीन से सटे मेरे कुंआ को क्षति ग्रस्त करदिये है, जिससे पानी का संकट हो गया है तथा आपस मे तनाव कीस्थिति हो गई है।

अतः पूर्व मे मेरे द्वारा दी गई आवेदन पत्र की छायाप्रति एवं माननीय उच्च न्यायालय पटना द्वारा दिनांक 8.11.2011 की छाया प्रति संलग्न कर अनुरोध करना है कि अतिक्रमण खाली कराने की कृपा कीजायताकि तनाव की स्थिति समाप्त हो जाय एवं विधि व्यवस्था की स्थिति उत्पन्न हो।

विश्वास भाजन

हउ नारायण यादव

पिता स्व० सुखदेव यादव

ग्राम पौ० सकरपुरा

अंचल मधेपुरा

दिनांक 5.3.2012