

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1149 of 2014

=====

Narad Prasad, S/O Late Mahabir Sao, resident of Village- Jamalpur, P.S. Paraiya, Block cum Circle- Paraiya, District Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The District Magistrate cum Collector, Gaya.
3. The Circle Officer, Paraiya, District Gaya.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Bishwa Nath Chaudhary

For the Respondent/s : Mr. Ajay Kumar, AC to SC-17

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 12-03-2015

Heard Mr. Bishwa Nath Chaudhary, learned counsel appearing on behalf of the petitioner and Mr. Ajay Kumar, learned Assisting Counsel to Standing Counsel No.17 for the State.

The grievance of the petitioner is that although the Circle Officer, Paraiya in the district of Gaya in the purported exercise of powers vested under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') issued notice to him charging him with encroachment over plot no.2 of khata no.79 admeasuring 2.15 decimals and plot no.340 of khata no.68 admeasuring 1.5 decimal vide notice bearing Memo no.583 dated 14.6.2013 as contained in Annexure-3 to the writ petition which was followed by a second notice bearing



Memo no.853 dated 3.9.2013 as contained in Annexure-4 which was exclusively in respect of plot no.340 but the fact is that whereas the petitioner does not claim any ownership over plot no.340, in so far as plot no.2 of khata no.79 is concerned, although allegation is made for encroachment on 2.15 decimals but the petitioner has purchased through a registered sale deed an area of only 1 decimal. He submits that the statement of the Circle Officer regarding purchase in 1970 is also not correct inasmuch as the purchase was made in 1980. It is further submitted that since the Circle Officer was not willing to grant opportunity to the petitioner to vindicate his stand that he filed a detailed representation before the District Magistrate, Gaya, a copy of which is placed at Annexure-5 and upon no steps being taken that the writ petition has been filed.

A counter affidavit has been filed and in paragraph 10 it is submitted that since the petitioner failed to produce the document in support of his possession that the alleged encroachment has been removed and since the petitioner was creating obstruction in removal of encroachment that an FIR was instituted against him. The fact of removal of encroachment and institution of the criminal case has been admitted by Mr. Bishwa Nath Chaudhary, learned counsel

appearing for the petitioner.

In the circumstances that the proceedings have been drawn to its conclusion by removal of encroachment, nothing survives in the present writ petition.

The writ petition is accordingly disposed of affording liberty to the petitioner to question the action taken by the Circle Officer for removal of encroachment by filing an appeal under the provisions of 'the Act' and any such appeal being filed within four weeks from today shall be considered and disposed of by the District Magistrate in accordance with law after giving an opportunity of hearing to the petitioner.

(Jyoti Saran, J)

SKPathak/-

U			
---	--	--	--