

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23113 of 2013

=====

Narayan Singh, S/O Anandi Singh, Resident of Village- Bakchapper, P.S-
Shahkund, District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar
2. The Collector, Bhagalpur
3. The Circle Officer, Shahkund, District- Bhagalpur.
4. Mrigendra Prasad Singh, S/O Late Tapeshwari Prasad Singh, Resident of
Village- Bakchapper, P.S- Shahkund, District- Bhagalpur.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Siyaram Sahi, Advocate
Mr. Mrigendra Kumar, Advocate
Mr. Davendra Kumar Pandey, Advocate

For the State : Mr. Anshuman, SC-14
Mr. Kuber Pathak, AC to SC-14

For the respondent no.4 : Mr. Alim Jang Khan, Advocate

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 15-12-2015

Heard learned counsel for the petitioner, the State and the
respondent no.4.

The notice dated 23.10.2013 as contained in Annexure-5
issued by the Anchal Adhikari, Shahkund, District-Bhagalpur is under
challenge in the present case.

It is contended on behalf of the petitioner that despite a
direction given by this Court in earlier case filed by the respondent
No.4 being CWJC No. 7972 of 2013 disposed of vide order dated
26.07.2013 (Annexure-3) directing the Collector under the Act to hold



the proceeding expeditiously and pass final order in accordance with law as early as possible and despite the further fact that the petitioner had already responded by filing his reply before the Circle Officer, the impugned notice has been issued without applying his mind upon the reply filed by the petitioner or even after according opportunity of hearing as per Section 5 of the Public Land Encroachment Act (hereinafter referred to as 'the Act') and has passed the final order under Section 6 of the Act.

This being the main issue raised by the petitioner. This Court had directed the learned counsel for the State to produce the original records of the concerned case to ascertain as to whether any final order was passed before issuing any notice as contained in Annexure-5 directing the petitioner to remove the encroachment otherwise the same would be removed with the help of District Administration.

Dr. Anshuman, SC-14, in all his fairness by producing the original records, has submitted that no final order appears to have been passed by the Circle Officer before issuing impugned notice under section 6(2) of the Act.

That being the situation, in my view, the notice as contained in Annexure-5 cannot be sustained and is, accordingly, quashed and set aside.

However, the Circle Officer is directed to comply with the earlier direction of this Court as contained in Annexure-3 and bring the encroachment case No. 1/2012-13 to its logical conclusion within a period of four months from the date of receipt/production of a copy of this order after granting reasonable opportunity to all the concerned.

This writ application stands disposed of.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

U			
---	--	--	--