

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.920 of 2015

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1. Dilip Kumar Agrawal Son of Sri Jai Chand Agrawal resident of village-
Kishanganj, P.S.- Kishanganj, District- Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate Cum-Collector, Kishanganj.
3. The Sub-Divisional Magistrate, Kishanganj.
4. The Circle Officer, Kishanganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Adv.

Mr. Rakesh Kumar Soni, Adv.

For the Respondent/s : Mr. Sanjay Kumar A.C. to AAG 12

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 26-03-2015 Heard Mr. Rakesh Kumar Soni, learned counsel for the
petitioner and Mr. Sanjay Kumar A.C. to AAG 12 for the State.

The petitioner is aggrieved by the notice dated 20.8.2014 issued by the Sub Divisional Magistrate, Kishanganj in Encroachment Case No. 2 of 2014-15 as well as the subsequent notice dated 5.12.2014 of the same authority in the same proceedings. Copy of the notices are impugned at Annexure-1 and 3 respectively to the writ petition and whereby the petitioner has been charged with encroachment upon a plot bearing Khata No. 314 Khesra No. 428 over an area of (40+38) x 60 Sq. ft. which according to the Sub Divisional Magistrate is a public land.

The notice has been contested by the petitioner on grounds



that he has made no encroachment and that his service centre is situated over plot bearing Khata Nos. 37 and 38 Khesra Nos. 69, 70, 71, 72, 84, 73 and 75 in Mauza Line(old) Ward No. 30 of Kishanganj Nagar Parishad in the District of Kishanganj and that no part of service centre encroaches on the public land as alleged in the notice. Learned counsel for the petitioner while making such submission relies upon an order passed by this Court in C.W.J.C. No. 779 of 2015 (Ram Kumar Agrawal Vs. The State of Bihar & Ors.) dated 12.3.2015 to submit that the present writ petition can also be disposed of in similar terms.

Learned counsel for the State while not contesting the submission of the petitioner regarding disposal in terms of the order passed in the case of Ram Kumar Agarwal (supra) submits that as in the previous case, even in the present case the writ petition is premature in as much as by the impugned notice the petitioner has merely been directed by the Sub Divisional Magistrate to be present with the supporting papers.

Having heard learned counsel for the parties and taking note of the nature of contest raised in the writ petition, this Court taking note of the fact that the claim of the petitioner is pending adjudication before the Sub Divisional Magistrate, Kishanganj, would dispose of the writ petition with liberty to the petitioner to

raise all issues as raised in the writ petition before the Sub Divisional Magistrate, Kishanganj by filing a comprehensive response along with supportive papers in Encroachment Case No. 2 of 2014-15 and which would be considered and disposed of by the Sub Divisional Magistrate, Kishanganj in accordance with law and after giving an opportunity of hearing to the petitioner. The Sub Divisional Magistrate would also carry out the measurement of the plots lawfully held by the petitioner after due notice to him and in his presence before recording his opinion on the alleged encroachment on public land.

The petitioner would appear before the Sub Divisional Magistrate along with his reply and copy of this order on/or before 1.4.2015 and whereafter the Sub Divisional Magistrate, Kishanganj shall proceed to dispose of the matter in the light of stipulations made hereinabove.

(Jyoti Saran, J)

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