

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 13333 of 2016

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Vijay Kumar Singh @ Awadesh Singh, Son of Baleshwar Singh,
Resident of Village - Muradpur Bangara, P.S. N.H. Bangra, District –
Samastipur. Petitioner.

Versus

1. The State of Bihar through District Magistrate, Samastipur.
2. The Circle officer, Tajpur, Samastipur. Respondents.
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Appearance :

For the Petitioner : Mr. Ganpati Trivedi, Sr. Adv.

: Mr. Vijay Anand, Adv.

For the Respondent: Mr. Raj Kishore Roy- GP18

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-11-2016

Heard learned counsel for the petitioner and the State.

The grievance of the petitioner is that the notices have
been issued to him without proper format for vacating the
concerned land even without initiating any proceeding upon him.

However, the original records have been produced
from which it appears that the notice under Section 3(2) of
Public Land Encroachment Act was issued upon the petitioner,
thereafter, the second notice was issued upon the petitioner but
he did not appear. However, no final order in terms of Section 6
of the Bihar Public Land Encroachment Act, 1956 appears to
have been passed.

It is contended on behalf of the petitioner that without
passing any final order the notice under Form II of the Bihar
Public Land Encroachment Act cannot be issued by any
authority and there is another discrepancy that the second notice,
as contained in Annexure-7, does not disclose that in which case
it has been issued.

Accordingly, the notice as contained in Annexure-7 is, hereby, set aside. The petitioner is granted liberty to appear before the Circle Officer, Tajpur, Samastipur within six weeks from today along with his reply to the notice, as contained in Annexure-6, considering it to be a notice issued under Section 3(2) of the Bihar Public Land Encroachment Act in Encroachment Case No. 1/15-16/1/16-17. After such reply having been filed by the petitioner, if the petitioner requires an opportunity of hearing then that should also be accorded for him as required under Section 5 of the Act only then a final decision should be taken in accordance with law also considering the grounds raised by him in his defence. Thereafter, the consequential action would be taken by the authority concerned depending upon the result of the case.

It is made clear that this order has been passed with respect to the petitioner and not with respect to the other persons upon whom such notices were issued or who are required to remove encroachment as only the petitioner has approached this Court by filing the present writ petition.

Accordingly, this writ petition stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA