

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2925 of 2016

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Harendra Prasad Yadav, Son of Late Ramdev Rai, resident of village - Kolasi,
Police Station - Chiraiya, District - East Champaran.

.... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna
2. The Principal Secretary, Department of Revenue and Land Reforms,
Government of Bihar, Patna
3. The District Magistrate, East Champaran
4. The Superintendent of Police, East Champaran
5. The Sub Divisional officer, Sikarahna, East Champaran
6. The Circle Officer, Chiraiya, East Champaran
7. The officer - in - Charge, Chiraiya, Police Station - Chiraiya, East Champaran

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate

For the Respondent/s : Mr. Kamlesh Kishore, AC to SC-12

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 23-11-2016

Heard parties.

Counter affidavit has been filed on behalf of respondent
no.6 stating therein that Encroachment Appeal No.246/2014-15 has
been preferred by the encroachers before the Additional Collector,
East Champaran. However, neither a copy of the final order, which
has been passed in the concerned encroachment proceeding has been
appended nor has any statement been made that a final order has been
passed.

Learned counsel for the petitioner submits that unless a
final order is passed, the appeal would not be maintainable as Section

11 (1) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as ‘the Act’) clearly indicates that appeal is available against every order passed under Sections 6, 7 and 8 of the Act.

Accordingly, since the petitioner has already appeared by filing intervention petition in the matter, he would be at liberty to raise the issue of maintainability in the appeal. The appellate authority would consider the same as preliminary issue. If such question is raised by the petitioner, let the appellate authority consider such preliminary issue in accordance with law and take a decision after hearing all the parties including the appellant within a period of four weeks from the date of receipt/production of a copy of this order.

This application stands disposed of.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	23.11.2016
Transmission Date	N.A.