

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1068 of 2016

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Girish Sharma S/o Deepa Sahrma resident of Village Barpa P.S. Pauthu
District Aurangabad.

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Aurangabad.
3. The Sub Divisional Officer, Aurangabad.
4. The Circle Officer, Rafiganj, District Aurangabad.
5. Ram Tawakya Sharma, S/o Late Ramdhyan Sharma, Resident of
Village - Barpa, P.S. - Pauthu, District - Aurangabad (Bihar)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Pandey, Advocate
For the State : Mr. Madhukar Mishra, AC to SC 31.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

3 29-01-2016 Heard learned counsel for the petitioner and the

State.

On 20.01.2016, a categorical statement was made

on behalf of the petitioner that no notice was ever issued upon
respondent authorities for appearing and explaining his case either
to him or to his father and suddenly Annexure-2 in Form-II was
issued to him directing him to vacate 01 decimal land of plot no.
461 which is a public land otherwise coercive action would be
taken against him in accordance with law. In paragraph 14 of the
writ petition, there is categorical statement which is quoted as
under:

“ That as per knowledge of this petitioner no prior notice was given to the petitioner for appearing in Miscellaneous case no. 10/2014-15. ”

On such submission having been made, this court had directed for production of the original records and also to maintain *status quo*. The records have been produced today which reveal that a notice was issued upon the petitioner on the earlier occasion in Form I directing him to appear on 02.01.2016 along with necessary papers to show his right upon plot no. 461. The notice was received by him on 29.12.2015. The order dated 02.01.2016 shows that the petitioner was present on the aforesaid date and had filed papers such as a copy of the registered sale deed with respect to plot no. 282 appertaining to khata no. 147. Thereafter, upon consideration of the materials available on record, it was held that the petitioner has not been able to produce any document with respect to plot in question i.e. plot no. 461, therefore, order was passed to issue notice upon him under Section 6 of the Bihar Public Land Encroachment Act, 1956.

Today, a supplementary affidavit has been filed on behalf of the petitioner categorically stating that the notice was issued upon him and received by him but neither he had appeared nor had given any reply to the notice, which again appears to be a



false statement. It is clear from the order dated 02.01.2016 that he had not only appeared but had also filed copy of the sale deed which is available on the original record. The aforesaid conduct of the petitioner is highly deprecated. It appears that he has made false statement not only on the earlier occasion but even today by filing supplementary counter affidavit and, as such, he had succeeded in obtaining the order of *status quo*.

At this juncture, it is contended on behalf of the petitioner that in fact he owns plot no. 282 and the road has been constructed upon it. But it does not appear that he has ever objected or raised any objection while the road was being constructed.

Be that as it may, the construction of road on plot no. 282 is not the subject matter of this case as this case is related only to the encroachment upon a public land of plot no. 461 and the petitioner has miserably failed to show by filing any document or from any other material available on record to show that the aforesaid plot belongs to him.

As such, this writ application is dismissed. In view of the conduct of the petitioner mentioned above, a cost of Rs. 10,000/- is imposed upon him. However, if he has any grievance with respect to the construction of road on plot no. 282,

this order would not come in his way in ventilating his grievance
before the competent authority.

(Dr. Ravi Ranjan, J.)

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