

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8089 of 2015

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Hari Rai, S/o Late Permeshwar Rai, resident of Village -
Bhubhauro, P.S. and District - Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar.
2. The Secretary, Rural Development Department, Govt. of Bihar,
Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The District Collector, Sitamarhi.
5. The Deputy Collector, District - Sitamarhi.
6. The Circle Officer, Dumara, District - Sitamarhi.
7. Prabhu Singh, S/o Late Sukeshwar Singh, resident of Village -
Bhubhauro, P.S. + District - Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vinod Kumar, Adv.
For the State : Mr. Ashok Kumar Choudhary, AAG-13
Mr. Avanindra Kumar Jha, AC to AAG-1
For the Respondent No.7 : Mr. Srinandan Prasad Singh, Adv.
Mr. Manish Kumar, Adv.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

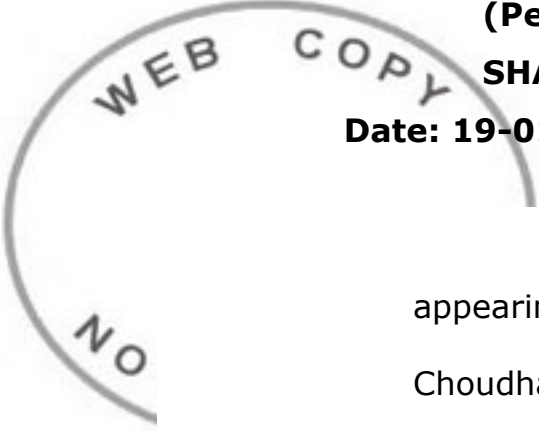
And

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH)**

Date: 19-01-2016



Heard Mr. Vinod Kumar, learned Counsel, appearing on behalf of the petitioner, and Mr. Ashok Kumar Choudhary, learned Additional Advocate General No.13, appearing on behalf of respondents-State of Bihar. Heard also Mr. Srinandan Prasad Singh, learned Counsel, appearing on behalf of respondent No.7.

2. In pursuance of the order, dated 11.01.2016, passed by this Court, respondent No.4, namely, District Collector, Sitamarhi, and respondent No.6, namely, Circle Officer, Dumara, District-Sitamarhi, are present before this Court.

3. The present writ application, under Article 226 of the Constitution of India, in the shape of Public Interest Litigation, has been filed seeking a direction to the respondents to remove the encroachment upon government land, adjacent to Sitamarhi-Madhubani road, admeasuring 12 decimals of land, appertaining to Plot No.4668 of Khata No.829.

4. A counter affidavit has been filed on behalf of respondent Nos.4 to 6 stating therein that Encroachment

Case No.3 of 2013-14 was instituted for the removal of the encroachment, in the nature of a house, raised by respondent No.7, which has since been removed on 16.01.2016 with the use of force.

5. It appears from the records that respondent No.7 had applied for settlement of the said land, in his favour, on the ground of his being a land-less person. Learned Counsel, appearing on behalf of respondent No.7, contends that the petitioner is entitled to settlement of the aforesaid land in his favour on the said ground.

6. On the contrary, learned Counsel, appearing on behalf of the petitioner, would contend that respondent No.7 is not entitled to any settlement of land in his favour, he being not a land-less person. He has referred to the reply, filed on behalf of the petitioner, to the counter affidavit, filed on behalf of the respondent Nos.4 to 6, wherein it has been stated that respondent No.7 owns 26 decimals of land, including 16 ½ decimals, adjacent to the land in question. We do not intend to go into merits of rival contentions, in this regard, in the present proceeding.

7. In view of the stand taken on behalf of respondent Nos.4 to 6 that the encroachment upon the said land, which is admittedly a *Gair Mazarua Khas Land*, has been removed, there is no need to proceed any further in

the present matter, the grievance of the petitioner having substantially been redressed.

8. As has been noted above, no part of this order should be treated to be any observations on the merits of the rival contentions made on behalf of the parties as regards the question of settlement of land in favour of respondent No.7. It will be open for the respondents to proceed in accordance with law and the petitioner shall be at liberty to resist any claim of settlement of the land in question, in favour of any person, before appropriate authority, by filing proper application, as may be permissible to him.

9. This proceeding stands closed with the direction and observations as above.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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