

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.18801 of 2016**

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Jyotish Kumar Rajak Son of Late Tarini Prasad Rajak resident of Barmasiya, Police Station - Katihar in the district of Katihar.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue, Government of Bihar, Patna.
3. The Divisional Commissioner, Purnea Division, Purnea.
4. The District Magistrate-cum-Collector, Katihar.
5. The Superintendent of Police, Katihar.
6. The Sub-Divisional Magistrate, Katihar.
7. The Circle Officer, Katihar.
8. Amit Kumar @ Babloo Son of Late Mahendra Prasad Yadav resident of Mohalla - Barmasiya, Police Station - Katihar in the district of Katihar.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sunil Kumar

For the Respondent/s : Mr. KHURSHID ALAM- AAG12

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

ORAL JUDGMENT

**Date: 16-03-2017**

Heard learned counsel for the petitioner and learned AC  
to AAG-12.

The present writ application has been filed for a direction  
to the respondents, particularly respondent no. 4, the District  
Magistrate-cum-Collector, Katihar and respondent no.6, the Sub-  
Divisional Magistrate, Katihar, to ensure compliance of the order  
dated 27.08.2016, contained in annexure-7, passed by the Circle  
Officer, Katihar, respondent no.7, in Encroachment Case No.03 of  
2015-16 whereby respondent no.8 has been directed to remove the



encroachment from the part of the land of Lord Shiva Temple appertaining to Khata No.1112, Plot No.927 (Ka) and 927(kha) total measuring area 9 decimal and 1 ¼ Kari. Paragraph 1 of writ application reads as under :-

"1. That this is an application for issuance of an appropriate writ/writs, order/orders, direction/directions for the following relief :

i. To direct the respondents especially respondent no.4 and 6 to ensure the compliance of the order dated 27.08.2016 passed by the Circle Officer, Katihar, in Encroachment Case No.03 of 2015-16 by which the respondent no.8 was directed to remove the encroachment from the part land of lord Shiva Temple bearing Khata No.1112, Plot No.927 (ka) and 927 (kha) total measuring area 9 Dec. 1 ¼ Kari.

ii. Also to direct the respondents especially respondent no.4 and 6 to remove the encroachment made over the Sarb Sadhran Land of Lord Shiva Temple in pursuance to the order dated 27.08.2016 passed by the Circle Officer, Katihar, in Encroachment Case No.03 of 2015-16 forthwith.

iii. Also for any other relief/reliefs for which the petitioner is found to be entitled in the eye of law."

It is submitted by learned counsel for the petitioner that the Circle Officer, Katihar, respondent no.7, vide order dated 27.08.2016, after hearing all the parties concerned, in Encroachment Case no.03 of 2.15-16, directed respondent no.8 Amit Kumar to vacate the encroached land of the temple within a period of 15 days, or else it will be vacated by use of administrative force. Consequent to final order dated 27.08.2016, as contained in annexure-7 to the writ petition, notice, under Section 6(2) of the Bihar Public Land Encroachment Act, 1956 was directed to be issued and encroachers



were directed to vacate the land, in question. Thereafter, the Circle Officer transmitted letter no.1908 dated 26.09.2016 to the Sub-Divisional Magistrate, Katihar for deputation of Magistrate and police force for removal of the encroachment made by respondent no.8. The petitioner filed a representation dated 30.06.2016 before the Circle Officer, as contained in annexure-9 to the writ petition, for getting the encroachment removed but in spite of that the encroachment was not removed.

A counter affidavit has been filed by respondent no.5, the Additional Superintendent of Police, Katihar, wherein the stand has been taken that as soon as requisition for police force is received the same shall, certainly, be made available.

Considering the rival submission of the parties, this Court is of the view that under sections 6(2) and 7 of the Bihar Public Land Encroachment Act, 1956 (hereinafter called as the 'Act'), the Collector has power to punish such person with imprisonment up to one year or fine up to Rs.2000/- or with both who does not comply the order passed by the Collector under Section 6 of the Act or get the encroachment removed and recover cost of removal from such encroacher.

Under the circumstances, the writ application is disposed of with a liberty to the petitioner to file an application



before respondent no.4, the District Magistrate-cum-Collector, Katihar, as well as respondent no.7, the Circle Officer, Katihar with a prayer for execution of the order dated 27.08.2016, as contained in annexure-7, who shall consider the same and do the needful as mandated under the provisions of the Bihar Public Land Encroachment Act, within a period of two months.

Accordingly, the writ application is disposed of.

**(Dinesh Kumar Singh, J)**

Ashwini/-

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

