

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9776 of 2014

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Satyendra Chaurasiya, S/o Sitaram Chaurasia, Resident of Anaith Mathia,
New Colony, Ara, P.S- Ara, Nawada, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar, through the Collector of Bhojpur at Ara.
2. The Superintendent of Ara, Bhojpur.
3. The Circle Officer, Ara Sadar Circle, Bhojpur.
4. The Commissioner Municipal Corporation Ara, Bhojpur.
5. The Officer Incharge Nawada, Police Station Ara, Bhojpur.
6. Awadhesh Singh, S/o Late Ramnandan Singh, Resident of Anaith Mathia, New Colony Ara, P.S- Ara Nawada, Distt- Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Nath Sinha
For the Respondent/s : Mr. R.R. K Pandey

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-07-2017 Heard learned counsel for the petitioner and learned
AC to AAG-13, appearing on behalf of the State.

The present writ application has been filed for quashing the notice dated 04.06.2014 and 21.05.2014, issued by the Circle Officer, Ara, respondent no.3, as contained in Annexure-1 series, whereby initially vide notice dated 21.05.2014, the petitioner has been directed to appear in the office of the Circle Officer on 02.06.2014 to produce evidence with regard to the encroachment made by him on the land appertaining to Khata No.99, Khesra No.995, area 9 decimals, whereas vide notice dated 04.06.2014, the petitioner has been directed to remove the



encroachment from the land in question by 11.06.2014.

The above notice was issued in pursuance to the order dated 07.12.2012, passed in C.W.J.C. No.22380 of 2012, preferred by the respondent no.6, wherein the petitioner was respondent no.7. The writ Court directed the Circle Officer to initiate a proceeding for removal of the encroachment on the representation of the respondent no.6 after seeking report from the Anchal Amin. The paragraph no.2 of the order reads as follows:-

“In case aforesaid representation is filed within 30 days from the date of receipt of the certified copy of this order, the Circle Officer shall initiate a proceeding for removal of the encroachment and after seeking a report from the Anchal Amin identifying the encroachers shall issue notice to them and after hearing the encroachers pass appropriate final order within a reasonable time, not exceeding six months from the date of receipt of the representation annexing a copy of this order.”

M.J.C. No.4464 of 2013 was preferred by the respondent no.6 for initiation of contempt proceeding for deliberate violation of the order dated 07.12.2012 passed in CWJC No.22380 of 2012, which was disposed of by a Bench of this Court vide order dated 10.09.2014, since the encroachment was already removed with a liberty to the Circle Officer to keep watch



over the lane and if any encroachment comes up, necessary action be taken for removal of the same. The order dated 10.09.2014, passed in MJC No.4464 of 2013 reads as follows:-

“In the light of the order of the High Court, encroachments have been removed and the drain has been made through even beyond the residence of the petitioner. In the circumstances, no further action is required in the matter. The contempt petition is, accordingly, disposed of.

Before parting with this order I would like to observe that Circle Officer should keep watch over the lane and if any encroachment comes up, action be taken to remove the same. If any other encroachment is still there, either in the lane or in the adjoining area, private respondent may invite the attention of the Circle Officer for appropriate action in the matter.”

In view of the fact that the notice, as contained in Annexure-1 series, has lost its force and in view of the fact that encroachment was removed after issuance of notice, as contained in Annexure-1, hence, this writ application has become infructuous.

The contention of the learned counsel for the petitioner that this Court vide order dated 07.12.2012, passed in C.W.J.C.No.22380 of 2012, directed for removal of the



encroachment after initiation of a proceeding, but notice was issued without initiation of a proceeding, remains a question of academic value, the same will be considered when a fresh cause of action will arise in future.

As prayed for, this application is permitted to be withdrawn as it has become infructuous.

(Dinesh Kumar Singh, J)

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