

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14360 of 2014

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Manoj Kumar Bhagat, Son of Shri Ram Kishna Bhagat, Resident of Village
- Khesar, P.S. Belhar, District - Banka

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Banka, District - Banka
3. The Circle Officer, Circle Fullidumar, District Banka

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh

For the Respondent/s : Mr. GP 6- Prashant Pratap

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-08-2017

Heard learned counsels for the parties.

The present writ application has been filed for setting aside the notice issued vide Memo No. 364 dated 4.8.2014 under the signature of respondent no. 3, Circle Officer, Fulli Dumar, Banka, whereby the public at large, who have encroached the flanks of Khesar Bazar PWD road, have been informed for removing the encroachment from the land appertaining to Thana No. 85, Khata Nos. 200,201 and 109 Plot Nos. 663,678,679,661,1646 and 1659 by 19.8.2014, with regard to which measurement has been made from 20.12.2013 to 3.1.2014 and the encroached portion has been demarcated, failing which, it has been directed that the cost of use of JCB machine for removing the encroachment will be realized at the rate of



Rs.1500/- per hour.

It is submitted by learned counsel for the petitioner that the measurement of the land in question was made without notice to the petitioner who purchased the same through registered sale deed. Moreover, he has paid revenue rent of the land in question up to 2013-14. The petitioner has got the area measured through his private Amin and the measurement details show that the petitioner has not encroached any part of the land in question.

The petitioner has submitted a representation before the respondent no. 3, Circle Officer, Fulli Dumar, Banka on 13.8.2014, but the respondent no. 3 has not taken any initiative for redressal of grievances of the petitioner.

Counter affidavit has been filed on behalf of respondent nos. 2, the Collector, Banka and Circle Officer, Fulli Dumar, Banka which reflects that the measurement was done in presence of all the affected persons including the petitioner and Encroachment Case No. 4 of 2014-15, was initiated in pursuance to order passed in PIL, i.e., C.W.J.C. No. 2290 of 1990 (Arun Kumar Mukherjee Vs. State of Bihar and Ors.). On initiation of a proceeding, notice, as contained in Annexure-1, has been issued. Counter affidavit does not reflect whether the proceeding has been concluded or not. However, the petitioner has not filed any reply



to the counter affidavit.

Considering the rival submissions of the parties and in view of the fact that the aforesaid encroachment proceeding, prima facie, appears to be pending, it is expected from respondent no. 3, Circle Officer, Fulli Dumar, Banka to conclude the proceeding of Encroachment Case No. 4 of 2014-15, if it has not already been concluded, within a period of three months from the date of receipt of the copy of the order, after giving opportunity of hearing to all affected persons including the petitioner.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Anil/-

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