

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.383 of 2016
IN
Civil Writ Jurisdiction Case No. 13830 of 2010**

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Mohan Mahto, Son of Late Munni Mahto, Resident of Village - Baheri, P.S.-
Baheri, District - Darbhanga

.... Appellant

Versus

1. Mahendra Mandal, Son of Lae Bauan Mandal
2. Ganesh Mandal, Son of Late Raghunath Mandal
3. Baidhnath Mandal, son of Late Sonelal Mandal, All resident of village-
Kumhiya, P.S.- Baheri, District- Darbhanga
4. Jitendra Narayan Singh, son of Late Jagdish Narayan Singh, Resident of village-
Baghauni, P.S.- Baheri, District- Darbhanga
5. Sitaram Mandal @ Ram Pravesh Singh, Son of Late Ram Swarup Singh,
Resident of village- Dahiyar, P.S.- Hathauri, District- Samastipur
6. Sikandar Mandal, son of Late Nanu Lal Mandal, Resident of village- Bore, P.S.-
Hathauri, District- Samastipur
7. The State of Bihar
8. The Collector, Darbhanga
9. The Additional Collector, Darbhanga
10. The Circle officer, Baheri, District- Darbhanga

.... Respondents

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Verma, Advocate
For the Respondent/s : Mr. AAG6- ANJANI KUMAR

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-11-2017

Keeping in view the detailed order passed by order dated

07.08.2017, which reads as under :-

“ Seeking exception to an order dated
05.11.2014 passed by the writ Court in C.W.J.C.
No.13830 of 2010, this appeal has been filed under
Clause 10 of the Letters Patent. The writ petition was



disposed of at the admission stage itself without notice to the private respondent (appellant herein) and on going through the detailed order passed by the learned writ court, we find that a concurrent order passed by the statutory authorities in the Encroachment Case No.04/2001-02 at the instance of the appellant under Bihar Public Land Encroachment Act, 1956 have been quashed without notice to the appellant and behind his back. Even though the justification given by the learned writ court may be right in interfering with the matter, but once at the instance of the present appellant encroachment proceeding was initiated and the competent authorities, namely, the original authority and the appellant authority have passed the orders in his favour, the principles of natural justice warrant that before entering into the controversy on merit and interfering with the concurrent orders passed at the instance of the present appellant, at least minimum requirement of issuance of notice to hear him should have been complied and this having not been done, it is a fit case that the appeal should be allowed.

Keeping in view the aforesaid, we direct for issuance of notice to private respondents, requisites etc. must be filed within one week and we further direct that the order passed on 05.11.2014 in C.W.J.C. No.13830 of 2010 shall remain stayed.”

After hearing the parties, today, we again find that deciding



the writ petition without notice to the appellant and without granting him an opportunity of hearing, the same has caused prejudice to the appellant and it is also in violation to the principles of natural justice and therefore, remand back to the Writ Court for consideration. One of the parties to file appeal under Clause 10 of the Letters Patent taking away that the matter should be heard by the learned Single Judge.

Accordingly, we allow this appeal and quash the order passed in C.W.J.C. No.13830 of 2010, restore the said writ petition to its original file and direct for listing the matter before the appropriate single Judge.

This appeal is disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08-11-2017
Transmission Date	

