

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9542 of 2014

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Damodar Mukhiya, son of late Aghnu Mukhiya, resident of village Mouji,
P.S. & Anchal Hasanpur, Subdivision Rosera District Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Divisional Commissioner Darbhanga Division, Darbhanga.
2. The District Magistrate-cum-Collector, Samastipur.
3. The Deputy Collector, Land Reforms, Rosera, Samastipur.
4. The Circle Officer, Hasanpur, Samastipur.
5. Chamru Yadav son of late Anandi Yadav
6. Ram Japo Yadav son of late Raghuni Yadav
Both resident of village Mouji, P.S. + Anchal Hasanpur, Subdivision
Rosera, District Samastipur.
7. Mukti Mukhiya son of late Durga Mukhiya
8. Ram Chandra Mukhiya son of late Bido Mukhiya
9. Kari Mukhiya son of late Panchu Mukhiya
10. Faudar Mukhiya son of late Medo Mukhiya
11. Kapil Mukhiya son of late Asharfi Mukhiya
12. Laxmi Mukhiya son of late Negar Mukhiya
All resident of village Mouzi, P.S. + Anchal Hasanpur, Sub-Division
Rosera, District Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra
For the Respondent/s : Mr. SC13- Arvind Kumar-1

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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
counsel for the State.

The present writ application has been filed for
quashing the notice dated 06.04.2014 as contained in Annexure-3
issued under Section 6(2) of the Bihar Public Land Encroachment
Act, whereby the petitioner has been directed by the Circle



Officer, Hasanpur, the respondent no.4, to remove the encroachment from the plot no.1537 situated at Mauza Hasanpur.

The notice, as contained in Annexure-3, does not reflect as to in which encroachment case the same has been issued nor any statement has been made either in the writ application or in the counter affidavit to that effect.

From the counter affidavit it appears that in Encroachment Case No.02 of 2008-09, the order was passed for removing the encroachment from the land pertaining to Khata No.294 (old), Khesra No.840 (old) 1501 (new). It further appears from the counter affidavit that, against the order passed in Encroachment Case No.02 of 2008-09, the petitioner filed Case No.290 of 2011 before the D.C.L.R., Rosera under Bihar Land Disputes Resolution Act, which was dismissed vide order dated 17.01.2013. Against the aforesaid order dated 17.01.2013, passed by D.C.L.R., Rosera, the petitioner filed Land Dispute Appeal No.190 of 2013 in the court of the Divisional Commissioner, Darbhanga. The Divisional Commissioner, Darbhanga vide order dated 11.06.2013 directed to maintain status quo with regard to the land in question, but the said order was not communicated to respondent no.3. As soon as the same was communicated, the Circle Officer, Hasanpur, respondent no.3, vide order dated



27.04.2014, passed in Encroachment Case No.02 of 2008-09, withdrew the notice dated 06.04.2014. The statement to this effect has been made in paragraph 4(g) of the counter affidavit filed on behalf of the respondent nos.2, 3 and 4, which reads as follows:-

“That the stay order of the learned Divisional Commissioner, Darbhanga Division, Darbhanga dated 11.06.2013 was communicated by the D.C.L.R., Rosera to the Circle Officer, Hasanpur vide his letter no.648 dated 20.06.2013, but unfortunately the said stay order of the Commissioner, Darbhanga Division, Darbhanga, communicated by the D.C.L.R., Rosera was not brought into cognizance of the Circle Officer, Hasanpur, hence under such circumstance the Circle Officer, Hasanpur inadvertently issued notice against the name of the petitioner on 06.04.2014 in his Court’s case No.02/08-09, but no sooner than the order of the status quo dated 11.06.2013 passed by the Commissioner, Darbhanga Division, Darbhanga in Land Dispute Appeal No.109/13 Damodar Mukhiya Vs. the State of Bihar & Ors, the Circle Officer, Hasanpur immediately vide his order dated 27.04.2014 passed in Encroachment Case No.02/08-09 withdrawn the said notice.”

In view of the fact that the notice, as contained in Annexure-3, quashing of which has only been prayed for, has already been withdrawn, the counsel for the



petitioner submits that this writ application has become infructuous. Hence, he prays for withdrawal of the same.

In view of the above submission, this writ application is dismissed as withdrawn.

(Dinesh Kumar Singh, J)

Arvind/-

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