

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4499 of 2016

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Shanti Kunwar, Wife of Late Ram Janam Prasad, Resident of Mohalla -
Naika Tola More, Jagdishpur, P.S. - Jagdishpur, District - Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Revenue Department, Bihar, Patna.
2. The District Magistrate, Bhojpur at Arrah.
3. The Addl. Collector Incharge Revenue Bhojpur, Arrah.
4. The Deputy Collector Land Reforms, Bhojpur at Arrah.
5. The Circle Officer Jagdishpur, Bhojpur.
6. The Executive Magistrate, Nagar Panchayat Jagdishpur, Bhojpur, Arrah.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Adv.
For the Res. 6 : Mr. Sanjay Kumar, Adv.
For the State : AC to GP-12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

3 11-07-2017 Heard learned Counsels appearing on behalf of the petitioner and respondent no.6 as well as learned AC to GP-12 appearing on behalf of the respondent State.

The present writ application has been filed for quashing of the letter no.408, dated 06.08.2011 and letter no.452, dated 26.08.2011, as contained in Annexure-3 series, whereby respondent no.6, the Executive Magistrate, Nagar Panchayat Jagdishpur, Bhojpur, Arrah, directed the petitioner to remove the hut existing over the land pertaining to Khata No. 884, Plot Nos.2301 and 2302, measuring an area 0.0080 hectare, which is



recorded as Aam Gairmazarua Anabad land.

It is submitted by learned counsel for the petitioner that the husband of the petitioner, late Ram Janam Prasad, applied for settlement of land in question for 99 years lease before the respondent no.2, the District Magistrate, Bhojpur, since he was landless person and belonging to Most Backward Class. Consequently, Settlement Case No.11/1987-88 was initiated, whereupon the Circle Officer, vide order dated 10.09.1987 transmitted his recommendation to the Additional Collector In-charge (Revenue), Bhojpur at Arrah for settlement of the land in favour of the petitioner. It is further submitted that vide order dated 22.06.1993, the Circle Officer recommended for settlement of the land in favour of the petitioner for 30 years and since then the petitioner is residing on the land in question by constructing a hut, but without considering such aspect of the matter, notices have been issued, which are impugned in the present writ application.

The petitioner filed a representation before the District Magistrate, Bhojpur for not disturbing the possession of the petitioner since she has been residing on the land in question since forty years. Learned Counsel for the petitioner further submits that a Bench of this Court vide order dated 14.09.2016



while issuing notice to respondent no.6, directed to maintain status quo as existing on that day, with regard to the land in question, but despite the said order the hut of the petitioner has been removed.

Mr. Sanjay Kumar, learned Counsel appearing on behalf of the respondent no.6 submits that the land in question is situated within territorial domain of Nagar Panchayat, Jagdishpur and the Circle Officer has no authority to settle or to lease out the land of Nagar Panchayat. The land of Nagar Panchayat can not be settled, however, it can be leased out by the Collector, only after approval of the Divisional Commissioner.

Learned counsel for the respondent no. 6 has further submitted that, initially, notice was issued to the petitioner for vacating the land in question on 06.08.2011. The petitioner is not a landless person as her son Santosh Prasad owns a house which is situated over Thana No. 239, Khata No.281, Plot No.3114. Moreover, subsequently, on 08.06.2016, 5 decimal of land has been settled in favour of the daughter of the petitioner, namely, Manju Devi, pertaining to Khata No. 1048, Plot No. 1565. The encroachment from the land in question was removed on 12.06.2016 prior to passing of the order of *status quo* by this Court on 14.09.2016, hence, the order of this Court has not been violated. It is further submitted that the petitioner sought quashing



of the letter no.408, dated 06.08.2011 and letter no.452, dated 26.08.2011, as contained in Annexure-3 series, and in pursuance to the same the encroachment has already been removed prior to passing of the order of *status quo*.

Hence, the writ application has now become infructuous.

Learned counsel appearing on behalf of the respondent State supports the contentions of the learned Counsel for the respondent no.6.

Having considered the rival submission of the parties, it appears that though, in the writ application statement has been made that the settlement was made or lease was granted in favour of the husband of the petitioner in 1999 but no document as such has been brought on record. The document which has been brought on record also does not suggest any settlement or lease has even been granted in favour of the petitioner's late husband. The petitioner has not disputed this fact that the land in question is a public land and moreover, the petitioner has also not controverted the statement made by respondent no.6 in the counter affidavit that the encroachment has been removed on 12.06.2016. Moreover, the petitioner is not a landless persons as her son Santosh Prasad owns a house and 5 decimals of land has also been



settled in favour of her daughter.

Since the only two notices, as contained in Annexure-3 series, are under challenge and in pursuance to the same, the encroachment has already been removed, this writ application has become infructuous.

Accordingly, the writ application is disposed of as infructuous.

(Dinesh Kumar Singh, J)

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