

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11611 of 2013

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Nurul Hoda Son Of Late Farjan Latheri Resident Of Village - Khaireva
Muslim Tola, P.S. - Bela, Block - Parihar, District - Sitamarhi

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Sitamarhi
3. The Sub-Divisional Officer, Sitamarhi, District - Sitamarhi
4. The Circle Officer, Khairawa, District - Sitamarhi
5. Kamal Ansari Son Of Hasan Ansari Resident Of Village - Khairwa
Muslim Tola, P.S. - Bela, District - Sitamarhi
6. Gulam Rasul Son Of Late Umar Ansari Resident Of Village - Khairwa
Muslim Tola, P.S. - Bela, District - Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 08-05-2017 Heard learned counsel for the petitioner and learned
A.C. to A.A.G.-4 for respondent nos. 1 to 4.

The present writ application has been filed for a direction to the respondent authorities not to disturb the peaceful possession of the petitioner over the land in dispute appertaining to Khata No. 957, Plot No. 3688, situated in Kharawa Tola Village in the District of Sitamarhi and not to demolish the house of the petitioner.

It is submitted by the learned counsel for the petitioner that the petitioner is residing in the house in question since last 75 years. On the representation submitted by respondent nos. 5 and 6,



the Circle Officer, Khairawa, respondent no.4 got the house of the petitioner demolished. The petitioner submitted a representation before the District Magistrate, Sitamarhi, for settlement of the land in question. Similar representations were submitted before Hon'ble the Chief Minister and Rural Development Minister of Bihar, as contained in Annexure-2 (series).

It is submitted by learned A.C. to A.A.G.-4 that the petitioner is residing on the flank of the road and that cannot be settled.

On the basis of the arguments put forth by learned counsels for the petitioner and for the respondent-State, it is undisputed that the land over which the petitioner claims to have been residing, is a public land. The petitioner also claims to be landless. So far as such grievance is concerned, the same has been dealt with by the proviso to Section 6 of the Bihar Public Land Encroachment Act, 1956, which is quoted as under:-

“Section-6:-.....

Provided if any landless person encroached up to 12^{1/2} dec. of public land before the 10th October 1955, no action shall be taken against him under the Act.”

The Mukhiya of the Panchayat, of which the petitioner is a resident, has endorsed in writing, on the representations of the



petitioner to the effect that he is landless and has been residing on the said public land since last 5-6 decades.

Hence, in view of the above discussion, no positive direction can be given in favour of the petitioner. As such, the writ application is disposed of with liberty to the petitioner to submit a fresh representation to the District Magistrate, Sitamarhi, in view of what has been stipulated in the proviso to Section 6, within a period of four weeks from the date of receipt/production of the copy of this order, when it is expected that the District Magistrate, Sitamarhi shall dispose of the representation of the petitioner within a period of six weeks from the date of submission of representation of the petitioner, after enquiring the veracity of the claim of the petitioner, with regard to his being landless and also with regard to the period from which he has been residing upon the public land.

(Dinesh Kumar Singh, J)

Amrendra/-

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