

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No. 3266 of 2016

In
Civil Writ Jurisdiction Case No. 993 of 2016

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Rudra Nath Jha S/o Late Nand Kumar Jha, R/o Village -
Bhawanipur, P.S. - Singhwara, District - Darbhanga.

.... Petitioner.

Versus

1. The State of Bihar.
2. Mr. Anjani Kumar Singh, the Chief Secretary, Govt. of Bihar, Patna.
3. Mr. Amir Subbhani, Principal Secretary, Gram Panchayati Raj Department, Govt. of Bihar, Patna.
4. Mr. Sukkan Paswan, the Commissioner, Darbhanga Division, District- Darbhanga.
5. Mr. Chandra Shekhar Singh, the Collector, District Darbhanga.
6. Mr. Gajendra Singh, the Sub - Divisional Officer, Darbhanga.
7. Mr. Dr. Shashi Prakash, the Block Development Officer, Singhwara, Darbhanga.
8. Mr. Swyamvar Jha, the Circle Officer, Anchal Singhwara, Darbhanga.
9. Mr. Rashid Perwej, the Officer Incharge, Singhwara, Darbhanga.
10. Lal Sah, S/o Late Shital Sah, R/o Village - Singhwara, P.S. - Singhwara, District - Darbhanga.
11. Sujeet Kumar, S/o Jagdev Rai, R/o Village - Singhwara, P.S. - Singhwara, District - Singhwara.
12. Ram Chandra Sah, S/o Late Rit Lal Sah, R/o Village - Singhwara, P.S. - Singhwara, District - Singhwara.
13. Lal Baitha, S/o Saryug Baitha, R/o Village - Singhwara, P.S. - Singhwara, District - Singhwara.
14. Ram Babu Sah, S/o Ganga Sah, R/o Village - Singhwara, P.S. - Singhwara, District - Singhwara.
15. Triveni Sah, S/o Tilay Sah, R/o Village - Singhwara, P.S. - Singhwara, District - Singhwara.

.... Respondents.

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Appearance :

For the Petitioner : Mr. Pramod Kumar Singh, Adv.

For the State : Mr. Jay Prakash Sharma, AC to GP-21

For the Private Respondent 10 & 12: Mr. Abinash Kumar, Adv.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER



04. 22.03.2017

Heard learned counsel for the petitioner and the State.

Supplementary show cause affidavit has been filed on behalf of the Circle Officer, Singhwara, District- Darbhanga stating that the encroachment has been removed.

Private opposite parties have appeared. It is submitted on their behalf that their house has been demolished without granting reasonable opportunity. It is contended that the order in CWJC No. 993 of 2016 dated 20.04.2016, as contained in Annexure-1 was passed without hearing them.

From perusal of Annexure-1, it appears that no decision against the private respondents was taken. Only a direction given was to bring the encroachment case no. 10/12-13 to its logical conclusion on its own merit and in accordance with law expeditiously preferably within a period of three months. However, the Circle Officer was further cautioned to grant reasonable opportunity to all the concerned parties.

The Circle Officer, Singhwara, Darbhanga is present in person and filed supplementary show cause affidavit. It appears that the Circle Officer passed an order on 08.11.2016 holding them to be the encroachers after granting them opportunity of hearing and considering their reply filed in



response to the notice. Thereafter, notice under Form II was issued but the opposite party neither challenged the order passed under Section 6 of the Bihar Public Land Encroachment Act, 1956 by assailing it before any competent forum nor did they challenge the notice. Ultimately, the encroachment was removed on 19.03.2017, i.e., about after 3 ½ months from the date of passing of final order. Still they have not challenged the order. In the present proceeding also, no positive order has been passed for their removal from the land. The order dated 08.03.2017 merely notices that final order has been passed under Section 6 of the Bihar Public Land Encroachment Act but the proceeding is yet to be brought to its logical conclusion, thus, the Circle Officer was directed to remain present personally. Thereafter, it appears that the Circle Officer has taken steps for removal of encroachment.

It is urged on behalf of the aforesaid opposite parties that they had already filed a title suit on 24.11.2016. However, that was admittedly filed much after passing of the final order under Section 6 of the Act by the Circle Officer. In that proceeding also, the opposite parties were not able to obtain any order of injunction.

In the aforesaid background of the matter, though this Court would not record its positive opinion in this



proceeding, however, the present proceeding cannot continue and, as such, the same is dropped.

It is contended on behalf of the petitioner that the debris after demolition is still lying at the concerned plot.

Let the debris be removed by the Circle Officer with the help of the district administration. It is also expected that the respondents would ensure that there is no further encroachment on the concerned land. However this decision would not come in way of the court concerned in deciding the title suit in accordance with law which has been filed by the private opposite parties.

The opposite parties would also be at liberty to seek their other remedies before the competent forum which would be available to them in law.

Accordingly, this application stands disposed of.

Personal appearance of the Circle Officer, Singhwara, Darbhanga is dispensed with.

(Dr. Ravi Ranjan, J.)

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