

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18105 of 2017

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Raghunath Saran Singh, Son of Late Ramchandra Singh, Resident of Mohalla
- Durga Shankar Road, Police Station - Kotwali, Town and District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gaya.
2. The Sub Divisional Officer, Sadar, Gaya.
3. The Circle Officer, Nagar Anchal, District - Gaya.
4. Anchal Amin, Nagar Anchal, District - Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manish Kumar No-2
For the Respondent/s	:	Mr. S.C. YADAV – GP15
		Mrs. Sanghmitra Ghosh, AC to GP 15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 19-12-2017 This matter has been taken out of turn on request of

learned counsel for the petitioner with consent of learned

counsel for the respondents.

Heard learned counsels for the parties.

The present writ application has been filed for restraining
respondent no. 3, the Circle Officer, Town Circle, Gaya from
demolishing the part of the house of the petitioner measuring an
area of 16 dhurs 11.5 dhurkies, situated at Ward No. 2, Plot No.
11037, Block No. 5, Mohalla Durga Shankar Road, Gaya.

Subsequently, I.A. No. 9216 of 2017 has been filed for
amendment of the prayer to the extent that the order dated
27.3.2017/16.10.2017 passed by the respondent no. 3 in
Encroachment Case No. 17 of 2016-17, as contained in



Annexure 1 to the I.A., whereby five persons have been directed to remove the encroachment from Plot Nos. 11037 and 11038 (old) and 603 (new) situated in Mauza Alamgirpur. Name of the petitioner's nephew, Gautam Kumar appears at Sl. No. 5 in the said order dated 27.3.2017/16.10.2017.

Learned counsel for the petitioner submits that the petitioner claims to have purchased the part of land in question through registered sale deed on 20.8.1983 from Brisketu Narayan Sinha in the name of his wife and son, namely, Phulpati Devi and Kumar Anand Singh. Thereafter, the land was mutated in the name of the petitioner. During recent survey operation, a new plot no. 588 in Khata No. 431 has been created and accordingly map has been prepared which is part of the land of the petitioner on which his garage is situated. Being aggrieved by the same, the petitioner's son Kumar Anand Singh has filed Title Suit No. 9 of 2014 wherein the State of Bihar is also added as party defendant. The manner in which the whole exercise has been done has created apprehension of demolition of the part of the house of the petitioner.

Learned counsel for the respondent State submits that the petitioner has an alternative remedy of appeal available to him, as provided under section 11 of Bihar Public Land



Encroachment Act (hereinafter referred to as the 'Act').

In view of the alternative remedy being available to the petitioner, this Court is not inclined to interfere with the final order passed under section 6(1) of the Act. The petitioner is permitted to file an appeal within a period of five weeks along with an application for condonation of delay as well as for the stay of final order passed by the respondent no. 3, Circle Officer, Town Circle, Gaya in Encroachment Case No. 17 of 2016-17.

The appellate authority is expected to consider the appeal along with the application for condonation of delay and prayer for stay in accordance with the provisions of the Act.

The status quo with regard to the land in question as existing today shall be maintained till five weeks from the date of receipt/production of a copy of this order.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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