

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4166 of 2018

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Heera Lal Mahra @ Heera Lal Ram, S/o Late Sundar Mahra @ Sunder Ram,
Resident of Village- Biraul, P.S.- Khajouli, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar, through the District Magistrate, Madhubani, District- Madhubani.
2. The Sub-Divisional Officer, Sadar, Madhubani, District- Madhubani.
3. The Deputy Collector Land Reform, Sadar, Madhubani, District- Madhubani.
4. The Circle Officer, Khajouli, Block- Khajouli, District- Madhubani.
5. Chandeshwar Prasad Yadav, S/o Jagdish Yadav, Resident of Village- Biraul, P.S.- Khajouli, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rabindra Nath Kanth, Adv.

For the Respondent/s : Mr. Majid Mahboob Khan, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 26-06-2018

Heard learned counsels for the petitioner and the respondent-State.

Since the Writ application was registered on 06.03.2018, but no counter affidavit has been filed till date and in view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter nor inclined to issue notice to private Respondent No.5.

Basic prayer of the petitioner in the present writ application is to quash entire proceeding of Encroachment Case



No. 16 of 2015-16 and not to dispossess from the land, appertaining to Khata No.239/577, Plot No.916 situated in Mauza – Biraul, P.S. Khajouli, District - Madhubani.

It is submitted by learned counsel for the petitioner that the land in question was settled with the petitioner and through the proceeding an attempt is being made to demolish his residential house. Moreover, Title Suit No. 59 of 2017 has also been preferred by the petitioner, which is pending before learned Sub-Judge-III, Madhubani.

Learned AC to AAG-12 submits that, at present, he is not having any instruction, but from the material on record, it appears that Respondent No.5 preferred writ application before this Court being CWJC No. 10642 of 2016 with a prayer for getting the encroachment removed from the public road, appertaining to Khata Nos. 239 (old), 507, Plot Nos.916 (old) and 1649 (new), wherein, a supplementary affidavit has been filed to the effect that, though an encroachment proceeding, being Encroachment Case No.16 of 2015-16, has been initiated, but the same has not been concluded. Hence, this Court vide order dated 23.08.2017 directed the Circle Officer, Khajouli to conclude the proceeding of Encroachment Case No.16 of 2015-16 within a period of two months from the date of



receipt/production of the copy of the order, after giving due opportunity of hearing to all the affected persons, in accordance with the provisions of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as ‘the Act’) .

Having heard learned counsels for the parties, this Court is of the view that once the petitioner has been noticed, he ought to have participated in the encroachment proceeding. Moreover, after passing of final order under Section 6(1) of the Act, the petitioner will have an opportunity to assail the order under Section 11 of the Act.

In the circumstances, this Court is not inclined to interfere into the matter.

The Writ application is, accordingly, disposed.

However, this order will not preclude the Respondent No.4, the Circle Officer, Khajouli to consider the case of the petitioner within the parameters of the provisions of the Act.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

