

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7225 of 2018**

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Phool Hassan, son of Late Shafique Ansari, resident of Mohalla- Khagra  
Karbala, Ward No. 32, Town, Police Station and District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Kishanganj.
3. The Circle Officer, Kishanganj.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|----------------------------|
| For the Petitioner/s | : | Mr. Najmul Hoda, Adv.      |
| For the Respondent/s | : | Mr. Sajid Salim Khan-SC-25 |

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**ORAL JUDGMENT**

**Date : 25-07-2018**

Heard Mr. Najmul Hoda, learned counsel for the petitioner and Mr. Sajid Salim Khan, learned SC-25 for the respondent-State.

The present writ application has been filed for quashing the notice dated 04.01.2018, issued under the signature of Respondent No.3, the Circle Officer, Kishanganj in Case No.299 of 2017-18, as contained in Annexure-2, whereby, the petitioner has been directed to submit his show cause on 23.01.2018 with regard to encroachment made over the land, appertaining to Thana No.144(57), Khata No.377, Plot No.1735, M.S. Khata No.254, Plot No.543, situated in Mauza - Khagra, District - Kishanganj. Further prayer has been made for quashing the notice dated 24.02.2018, issued under Section 6(2)



of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') under the signature of Respondent No. 3, the Circle Officer, Kishanganj, as contained in Annexure-3, whereby, the petitioner has been directed to remove the encroachment from the land in question by 12.03.2018, failing which, the same will be removed by deployment of force and the cost of removal of such encroachment will be realized by the petitioner.

In pursuance to order dated 19.06.2018, the Respondent No.3, the Circle Officer, Kishanganj is present along with the records of Encroachment Case No.299 of 2017-18.

However, learned Mr. Sajid Salim Khan, learned SC-25 very fairly submits that notice under Section 6(2) of the Act has been issued without passing any final order under Section 6(1) of the Act. Hence, he is unable to defend the matter.

Considering the fair stand of learned SC-25, the notices, contained in Annexures 2 and 3, are hereby quashed.

However, the Respondent No.3, the Circle Officer, Kishanganj will be at liberty to proceed with the matter from the stage of issuance of notice under Section 3 of the Act and take the proceeding of Encroachment Case No.299 of 2017-18 to its



logical conclusion within a period of three months, by giving due opportunity of hearing to all affected persons including, the petitioner in accordance with the provisions of the Act.

Personal appearance of Respondent No.3, the Circle Officer, Kishanganj is dispensed with.

The writ application is accordingly disposed of.

**(Dinesh Kumar Singh, J)**

Ashwini/-

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