

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7374 of 2018

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Md. Jalil Alias Abudl Jalil, Son of Abdul Aziz, 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 :

For the Petitioner/s : Mr. Najmul Hoda, Adv.
For the Respondent/s : Mr. Mazid Mehboob Khan, AC to AAG-12

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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. Mazid Mehboob Khan, learned AC to AAG-
12 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
Encroachment Case No.309 of 2017-18, as contained Annexure-
2, whereby, the petitioner has been directed to submit his show
cause on 24.01.2018 with regard to encroachment made over the
land, appertaining to Thana No.144(57), Tauzi No.270, Plot
Nos. 549, 559 and 754, M.S. Khata No.377, 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 is 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 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.309 of 2017-18.

However, learned AC to AAG-12 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.

In the above circumstances and considering the fair stand of learned AC to AAG-12, the notices, as contained in Annexures 2 and 3, are hereby quashed.

However, the Respondent No.3, the Circle Officer, Kishanganj will be at liberty to proceed the matter at the stage of issuance of notice under Section 3 of the Act and take the proceeding of Encroachment Case No.309 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/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

