

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1643 of 2018

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Banarsi Thakur, S/o Late Hari Thakur, Resident of Jorarpur, P.S.-
Deepnagar, District- Nalanda. at present residing at Moh- Ramchandrapur,
P.S.- Laheri, Distt- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through Collector, Nalanda.
2. The Bihar Sharif Nagar Nigam, Nalanda.
3. The Municipal Commissioner, Bihar Sharif, Nagar Nigam, Nalanda.
4. The Mayor, Bihar Sharif Nagar Nigam, Nalanda.
5. The Circle Officer, Bihar Sharif, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Prasad Singh

For the Respondent/s : Mr. Abbas Haider-Sc6

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 05-02-2018

Heard Mr. D.K. Sinha, learned Senior counsel

for the petitioner, Mr. Saiyad Hussain Majid, learned AC to SC-6
respondent nos. 1 and 5 and Mr. Gyan Prakash Ojha for
Biharsharif Nagar Nigam, respondent nos. 2, 3 and 4.

The petitioner has prayed for quashing of the
Notice issued vide Memo No. 3193 dated 27.12.2017 and Memo
No. 186 dated 17.01.2018 by respondent no. 5, Circle Officer,
Biharsharif, Nalanda in Encroachment Case No. 24 of 2016-17,
whereby petitioner has been directed to remove the encroachment
from the land appertaining to Thana No. 126, Khata No. 48, Plot
No. 365 situated in Mauza – Chakhajiain, District – Nalanda by



01.02.2018 and 05.02.2018.

It is submitted by learned counsel for the petitioner that the issue of title is involved with regard to the land in question but by a summary proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') the final order under Section 6(1) of the Act has been passed vide order dated 17.01.2018 in Encroachment Case No. 24 of 2016-17. Title Suit filed by Bihar Sharif Nagar Nigam against the State is pending, wherein the petitioner has been impleaded as party-defendant, whereas other title suit being Title Suit No. 21 of 1999 has been filed by the petitioner and the same has been dismissed against which Title Appeal No. 51 of 2010 is pending.

Considering the fact that there is provision for statutory appeal under Section 11 of the Bihar Public Land Encroachment Act against the final order passed by the Circle Officer, the petitioner is permitted to prefer appeal within three weeks with a petition for condonation of delay before the Collector, Nalanda as well as a petition with a prayer for stay of the operation of the final order dated 17.01.2018 passed by Circle Officer, Bihar Sharif in Encroachment Case No. 24 of 2016-17. If such appeal is filed then the Appellate Authority may consider the delay in filing the appeal as well as the stay petition within three



weeks thereafter.

In the circumstances discussed above, status quo, as is existing today, with regard to the land in question shall be maintained for next six weeks.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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