

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.575 of 2018

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Vivek Kumar Singh, Son of Sarju Singh, Resident of Village-Delha, P.O.
Bijju Bigha, P.S. Buniyadganj, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. The Sub-Divisional Officer, Sadar, Gaya.
5. The Circle Officer, Manpur Circle, District-Gaya.
6. Bhola Nath Singh, Son of Late Subedar Singh, Resident of Village-Delha, P.S.
Buniadganj, District-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, 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 : 03-04-2018

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

The writ application was initially filed by the
petitioner on being aggrieved with the manner in which the
respondent no.5, the Circle Officer, Manpur, is proceeding in
Encroachment Case No.01 of 2013-14 in pursuance to the
direction of this Court dated 06.04.2017, passed in CWJC No.
11634 of 2016, as contained in Annexure-1, as only the
residential house of the petitioner is being sought to be
demolished, without noticing to the other encroachers.

Interlocutory Application No.1763 of 2018.



The aforesaid Interlocutory Application has been filed for quashing of the Notice dated 24.02.2018, as contained in Annexure-6 to the Interlocutory Application, issued under the signature of respondent no.5, the Circle Officer, Manpur, in Encroachment Case No. 01 of 2013-14, whereby, the father of the petitioner Saryu Singh has been directed to remove the encroachment from the land appertaining to Thana No. 241, Khata No.86, Plot No.386, situated at Mauza -Delha, P.S.-Buniyadganj, District-Gaya, by 07.03.2018, failing which he will be liable to be prosecuted under Section 188 of the I.P.C.

Re. CWJC No. 575 of 2018.

The factual matrix of the case is that Bhola Nath Singh (respondent no.6) preferred CWJC No. 11634 of 2016 with a prayer for a direction to the respondent authorities for removal of the encroachment from seventy feet long water channel (Pyne) and forty six feet road, appertaining to Thana No.241, Khata No.86, Plot No.386/387 situated in the Village-Delhi, under Manpur Block, in the district of Gaya.

The said writ application was disposed of vide judgment dated 06.04.2017 with a direction to respondent nos. 2 and 4 to dispose of the representation of the petitioner within a period of four weeks. It was further directed that if respondent



nos. 2 and 4 come to a conclusion that there is encroachment on the public land, then if any encroachment proceeding has not been initiated, the same should be initiated within a period of two weeks of the disposal of the representations of the petitioner and to concluded such proceedings within a period of four months thereafter, after giving due opportunity of hearing to all the affected persons.

It appears that the encroachment proceeding was initiated prior to the judgment passed in the writ application and consequently on passing of the final order the notices under Section 6(2) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act) in Form-II, has been issued. However, the petitioner has not brought on record the final order.

In the circumstances, since as per the provisions under Section 6(2) of the Act, the notice under the said section in Form-II can only be issued after the order passed under Section 6(1) of the Act. Hence, it is presumed that the final order has been passed.

In the circumstances, it is expected from the respondent authorities concerned to supply the order passed under section 6(1) of the Act in Encroachment Case No.1 of



2013-14 within a period of one week, for which the petitioner will submit the representation within two days from the date of receipt/production of a copy of this order and thereafter the authority will supply the order within a period of one week of the date of submission of the application and thereafter the petitioner would be at liberty, if so advised, to prefer appeal within a period of three weeks of receipt of the final order.

The writ application as well as the Interlocutory Application are disposed of with the observation and direction afore-mentioned.

Let *status quo* with regard to the land in question, particularly with regard to the residential house of the petitioner, as is existing today, be maintained for next four weeks by the respondent authority.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

