

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1276 of 2018

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Ramchandra Prasad @ Dr. R. C. Prasad, Son of Bhadeshwar Tanti, Resident of Bodhwan Talab, Jamui, P.S. & Distt. -Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through Circle Officer, Jamui
2. District Magistrate-cum-Collector, Jamui
3. Circle Officer, Jamui Circle, Dist.-Jamui
4. Anchal Amin, Jamui Anchal, Jamui
5. Arbind Prasad Sah, Son of Baleshwar Sah, Resident of Bodhwan Talab, Jamui, P.S and Distt. Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan Singh, APP
For the Respondent/s : Mr. Rakesh Kr. Srivastava, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 19-01-2018 Heard learned counsel for the petitioner and learned AC to GP-15 for the respondent-State.

The present Writ application has been filed for quashing of the order dated 22.12.2017, passed by respondent no.3, the Circle Officer, Jamui, in Encroachment Case No.4 of 2017-18, whereby, the petitioner has been directed to remove the encroachment from the land appertaining to Khata No. 84, Plot No. 273, situated in Mauza- Jamui, District - Jamui, as contained in Annexure-1 to the Writ application.

It is submitted by learned counsel for the petitioner that the petitioner has constructed his house over land appertaining to plot no.276 and has not made any construction over land



appertaining to Plot No. 273. However, against the order impugned, the petitioner has preferred an appeal before the respondent no.2, the District Magistrate-cum-Collector, Jamui on 02.01.2018, which has been heard on 12.01.2018 and now it has been adjourned for 19.01.2018, but has not been disposed of. Hence, the present Writ application.

Learned AC to GP-15 appearing on behalf of the respondent-State submits that if the petitioner's appeal is pending before the respondent no.2, the District Magistrate-cum-Collector, Jamui, it will be disposed of within a time frame. He further submits that if any application is filed by the petitioner for stay of the order dated 22.12.2017, passed by respondent no.3, the Circle Officer, Jamui in Encroachment Case No.4 of 2017-18, the same shall also be considered and disposed of by the Collector.

Considering the fact that substantive appeal is already pending, this Court without expressing any opinion on merits of the case permits the petitioner to file appropriate application for stay of the execution of the order dated 22.12.2017, passed by respondent no.3, the Circle Officer, Jamui, in Encroachment Case No.4 of 2017-18, before the respondent no.2, the District Magistrate, Jamui, within a period of two weeks, from the date



of production/receipt of a copy of this order which will be preferably considered and disposed of within a period of two weeks of filing of stay petition. It is also expected from the respondent no.2, the Collector, Jamui to dispose of the appeal filed by the petitioner within a period of eight weeks from the date of production/ receipt of a copy of this 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.

Let *status quo* as existing today, with regard to the land in question be maintained for next three weeks from today.

The Writ application is, accordingly, disposed of with the observation and direction aforementioned.

(Dinesh Kumar Singh, J)

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