

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.509 of 2018

In
Civil Writ Jurisdiction Case No.15300 of 2017

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Pankaj Kumar Singh Son of Chitranjan Singh Resident of Village- Chamtha,
Chhot Khut Police Station- Bachhwara, District- Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar through the District Magistrate, Begusarai.
2. The Deputy Collector Land Reforms, Teghra, Begusarai.
3. The Sub Divisional Officer, Teghra, Begusarai.
4. The Circle Officer, Bachhwara, Begusarai.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Dr. Anshuman, Adv
For the Respondent/s	:	Mr. Md.Khurshid Alam -Aag12

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 08-08-2018

Heard parties.

This Intra-Court appeal has been preferred against the judgment dated 14.03.2018 passed in C.W.J.C No.15300 of 2017, by which the writ petition, after holding the same to be devoid of merit, has been dismissed and the petitioner was directed to appear before the Collector-cum-Circle Officer, Bachhwara, and submit show cause in compliance of notices issued for removal of encroachment.

If an encroachment case is initiated under Bihar



Public Land Encroachment Act, 1956 (hereinafter referred to as the Act), a notice has to be issued upon the encroacher, under Section 3 of the Act. The encroacher would have opportunity to answer show cause notice and under the scheme of the Act, he will be granted opportunity to set out his defence in similar manner if he was a defendant in properly framed suit for removal of the encroachment. That apart under Section 5 of the Act contemplates he has to be accorded opportunity of hearing then only, under Section 6(1) of the Act, a final order is to be passed by the Collector under the Act. A remedy by way of appeal against such order passed is available under Section 11 of the Act.

In above view of the matter, we do not see any reason warranting interference in the judgment impugned, inasmuch as, merely a notice has to be issued upon the writ petitioner who would be given opportunity by the Circle Officer to file his defence to show that he has not encroached any public land.

In the result this appeal is dismissed.

However, it goes without saying that, if the petitioner appears and files his defence and raises an issue



that he has not encroached the concerned land then a measurement of the concerned land may be made in his presence.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
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