

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2297 of 2017

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Umesh Kishore Sharan Son of late S.D. Narayan, resident of Mohalla- Indira Nagar, Road No. 4 at and P.S. Kankarbagh, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Urban Development, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Patna Nagar Nigam through its Commissioners, Patna Nagar Nigam, Maurya Lok, Patna.
4. The Executive Engineer, Division-F, Patna Nagar Nigam, Kankarbagh, Patna.
5. The Circle Officer, Fulwari Shariff, Patna.
6. Saryug Paswan Son of late Mahabir Paswan, Sivaje Nagar, Road No. 4, Indira Nagar, New Bye Pass Road, Kankarbagh at and District- Patna.
7. Satendra Kumar Son of Sri Chandeshwar Singh, Sivajee Nagar, Road No. 4, Indira Nagar, New Bye Pass Road, Kankarbagh at and District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Sinha, Sr. Advocate Mr. Bhola Kumar, Advocate
For the Respondent/s	:	Mr. Subhash Pd. Singh- GA 3
For the Respondent No.6:	:	Mr. Md. Fazle Karim

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 26-10-2018

The Circle Officer, Phulwarisharif, Patna is present

before this Court.

It is stated that the encroachment has already been removed. The photographs to that extent have been produced before us which show demolition of certain structures but the debris is still lying on the spot which should also be removed by the authorities.

Md. Fazle Karim, learned counsel, has appeared on



behalf of the respondent No.6. He was not present when the matter was taken up yesterday. However, it is submitted that he has filed a writ application challenging the order of the Circle Officer concerned. That would be of no consequence now as the demolition has already taken place and we have not decided the matter as to whether the order passed by the Circle Officer was correct or incorrect because the writ petitioner has moved this Court that the Circle Officer was not proceeding in the matter for demolition of the encroached structure. In the meantime, final order under Section 6 of the Bihar Public Land Encroachment Act, 1956 was passed on 10.01.2018 but the respondent No.6 did not challenge the order by filing any appeal before the competent authority on any earlier occasion even before this Court or has not been able to bring any stay order of the competent authority. Thereafter, on 10.04.2018, a final notice was issued in Form-II for removal of encroachment. Though no statutory appeal was filed against any of the order or the notice but surprisingly learned counsel for respondent No.6 submits that he has filed a writ application in October, 2018 but he has not been able to bring any stay order. He has not filed any counter affidavit in this case also despite notice having been issued upon him. This clearly goes to show that he was evading



everything to delay the matter so far as it is possible.

In such a situation, now since the structure has already been demolished, in our view, this proceeding has to be closed.

Accordingly, this writ application stands disposed of.

However, since it has been alleged by the private respondent at the time of hearing before us that the writ petitioner is also an encroacher on the plot No.1084 though the writ petitioner is refuting the allegation, even though the matter is not before us, we will only observe that if any petition is filed before the Circle Officer for removal of such encroachment then the Circle Officer would at liberty to proceed in the matter on its own merit and in accordance with law.

Since we have not decided the matter on merit in view of the development which has taken place during the pendency of the writ petition, the parties aforesaid would be at liberty to seek legal remedies.

We are taking a note that the Circle Officer has undertaken before us that the debris lying on the spot would be removed within a week.

However, at the same time, the concerned Officer-



in-Charge of Kankarbagh Police Station would ensure that no encroachment or structure is made on the concerned plot save and except if the same is being done on the basis of any order passed by a competent forum.

The personal appearance of the Circle Officer, Phulwarisharif is dispensed with.

(Dr. Ravi Ranjan, J)

(Madhuresh Prasad, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.10.2018
Transmission Date	NA

