

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1880 of 2017

IN

Miscellaneous Jurisdiction Case No. 875 of 2016

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Munna Kumar, S/o Shri Vishram Patel @ Mantu, R/o Village Kobeya, PO-
Panapur, P.S. Harsiddhi, District East Champaran, Motihari.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Development Department,
Govt. of Bihar, Patna, Shri Dr. S. Sidharth.
2. Shri Narmdeshwar Lal, the Divisional Commissioner, Tirhut Division,
Muzaffarpur.
3. Shri Anupak Kumar, the District Magistrate cum Collector, East Champaran,
Motihari.
4. Shri Rajnish Lal, the Sub Divisional Officer, Sadar, District Motihari.
5. Shri Badri Prasad Gupta, Anchaladhikari, Sugauli, District East Champaran,
Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.

For the Respondent/s : Mr. Anjani Kumar, AAG-4.

For the Intervener : Mr. Anshuman Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 26-09-2018

The writ petition was disposed of with a direction to the Circle Officer as a Collector under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') to conclude the encroachment proceedings for removal of encroachment on plot bearing Khata No.88, Khesra No.689, Mauza Mada Chapra, Circle Sugauli, District East Champaran, stated to be recorded as *Gairmazarua Aam Rasta*. It is on failure of the concerned respondent to ensure compliance of the order passed in CWJC No.1947 of 2014 that a contempt application was earlier filed bearing MJC No.875 of 2016 which was disposed of in the



light of the show cause filed on behalf of respondent-opposite parties that the application has been acted upon for disposal. The present contempt application is second in chain again complaining of non-compliance.

A show cause was filed on behalf of opposite party no.5 i.e. the Circle Officer, Sugauli, East Champaran through which it was informed that the encroachment has been removed.

Since the order passed under 'the Act' was not on record that on direction issued by this Court, a supplementary show cause is filed enclosing an order dated 17.12.2016 of the Circle Officer, Sugauli directing for removal of encroachment and which order is preceded by a notice dated 26.11.2016 issued in the name of four alleged encroachers including those who have sought impleadment in the present proceeding namely, Jhagru Yadav and Jagarnath Yadav. By the said notice these encroachers have also been asked to explain their encroachment.

It is the submission Mr. Anshuman Singh, learned counsel appearing on behalf of the intervener opposite parties that a show cause was filed in the encroachment case through which attention of the Circle Officer, Sugauli was drawn towards pending title suit but without consideration of the show cause that the order on encroachment case, has been passed and even the alleged encroachment has been removed in violation of the statutory



procedure and without awaiting the outcome of the title suit.

Having heard learned counsel for the parties including the intervenor-opposite parties and taking note of the complaint advanced by Mr. Singh, on their behalf, I am of the opinion that the issue canvassed needs to be tested in an independent proceedings and not in a contempt jurisdiction.

In so far as the issue of contempt is concerned, as per the status existing, as it transpires from the two show cause on record, no case of contempt can be drawn as against the opposite party no.5. I, thus, while disposing of the contempt application, would allow the intervenor-opposite parties to assail the action taken by the Circle Officer as a Collector under ‘the Act’ together with the order so passed, by filing an appropriate application before the appropriate forum.

The contempt application is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/Anjula

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06-10-2018
Transmission Date	NA

