

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.789 of 2018

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Rakib Ali, Son of Late Md. Shakur Ali, Resident of Near Bus Stand,
Bariyarpur, P.O. and P.S. Bariyarpur, District-Munger.

... .. Petitioner

Versus

1. The State of Bihar, Through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Munger Division, Munger.
3. The District Magistrate-Cum-Collector, Munger.
4. The Deputy Collector Land Reforms, Munger.
5. The Sub-Divisional Officer, Munger Sadar, District-Munger.
6. The Circle Officer, Bariyarpur, District-Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Adv.
For the Respondent/s : Mr. Raj Kishore Roy, GP-18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 30-07-2018

Heard Mr. Ajit Kumar Singh, learned counsel for the petitioner and Mr. Raj Kishore Roy, learned GP-18 for the respondent-State.

The present writ application has been filed for a direction to respondent authorities to vacate the homestead land of the petitioner, appertaining to Khata No.72, Plot No.133, situated



at Mauza Bariyarpur, District Munger. Further prayer has been made to compensate the loss for demolition of the house and shop over the land in question, without initiating any proceeding or without giving any notice to the petitioner.

I.A. No. 2545 of 2018 has been filed with a prayer to restrain the respondent authorities from making construction over the land in question.

It appears that initially notices were issued and Respondent No.6, the Circle Officer, Bariyarpur, was directed to appear in this Court, since it was claimed by the petitioner that neither any encroachment proceeding was initiated nor any notice has been issued to the petitioner under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'). The petitioner claims that the land in question remained in possession of one Fakir, who allowed the petitioner to construct the shop and the house over the land in question but the same was demolished.

A counter affidavit has been filed on behalf of the Respondent Nos. 3, 4, 5, 6, which suggest that the land in question is recorded in the Record of Rights as Gair Majaura Fakiranadar. A proper proceeding under the Act being Encroachment Case No. 03 of 2017-18 was initiated and all the 31 encroachers including the petitioner were noticed. The name of the petitioner appears at



serial no. 29 and there after some of them declined to receive the notice but none of them produced any document in support of their claim over the land in question. The intimation was also made by announcement through loud-speaker, but none appeared, as a result vide order dated 13.06.2017, it was finally held that the public land has been encroached upon and notice under Section 6(2) of the Act has been directed to be issued. The entire order sheet of the encroachment proceeding has been brought on record.

In such circumstances, this Court is not inclined to interfere at this stage only on the ground that the petitioner has alternative remedy of appeal under Section 11 of the Act.

Accordingly, the petitioner is permitted to prefer an appeal along with an application for condonation of delay within a period of three weeks from the date of receipt/production of the copy of this order, when it is expected from the appellate authority to consider the appeal including the application for condonation of delay, keeping in view that the writ application was pending before this Court.

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

Accordingly, the present writ application as well as I.A. No. 2545 of 2018, is disposed of.



The personal appearance of the then Circle Officer,
Bariyarpur, now posted at Sampat Chak, is dispensed with.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

