

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14399 of 2018

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Raj Kumar Tiwary, Son of late Ram Ayodhya Tiwary, Resident of Village-
Rampur Ami (Chauhani Pati), P.S. Dighwara, District- Saran (Chapra).

... .. Petitioner/s

Versus

1. The State of Bihar, through its Chief Secretary, Old Secretariat, Patna.
2. The Commissioner, Saran Division, Saran.
3. The District- Magistrate, Saran (Chapra).
4. The Sub-Divisional Officer, Sonapur, Saran (Chapra).
5. The Circle Officer, Dighwara, Saran (Chapra).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Kishore Singh, Adv.
For the Respondent/s	:	Mr. Mazid Mehboob Khan, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 30-07-2018

Heard learned counsel for the petitioner and the respondent-State.

The present writ application has been filed for quashing of the entire proceeding of Encroachment Case No.05 of 2015-16, initiated for removal of encroachment from the land, appertaining to Plot No.1110, Thana No.149, situated in Village-Aami, District-Saran. Further prayer has been made for quashing of the Notice dated 10.10.2017, issued under Section 3 of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'), in Form-I, under the signature of the



Respondent No. 4, the Circle Officer, Dighwara, as contained in Annexure-P/4, whereby, the petitioner has been directed to appear before the Circle Officer on 01.11.2017 at 11.00 A.M. to submit his show cause with regard to the alleged encroachment made over the land in question, failing which, the matter will be decided ex parte.

It is submitted by learned counsel for the petitioner that the land in question is settled in favour of the petitioner, but mechanically, the petitioner has been noticed.

It is submitted by learned AC to AAG-12 that after issuance of notice under Section 3 of the Act, the petitioner has occasion to submit his show cause, which the petitioner has already submitted, as gets reflected from Annexure-P/5, hence, until final order is passed under Section 6(1) of the Act, the writ application is premature.

Considering the fact that notice under Section 3 of the Act has been issued and the petitioner has submitted his show cause and is now further praying for sometime to bring certain documents on record, it appears that the writ application is premature.

However, if a final order under Section 6(1) of the Act has been passed, the remedy of appeal under Section 11 of the



Act is always available to the petitioner and only after the remedy of appeal is exhausted, the petitioner could seek to invoke the remedy of writ jurisdiction before this Court, if so advised.

With the aforesaid observation, the writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

