

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10315 of 2018

=====

Sunil Sharma, Son of Munshi Sharma, Resident of Mohalla - Adarsh Nagar,
Ward No.- 04, P.S. - Kochas, District - Rohtas.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary Land Reforms Department, Govt. of Bihar, Patna.
2. The District Magistrate, Rohtas.
3. The Deputy Director of Consolidation, Rohtas.
4. The Circle Officer, Kochas, Rohtas.
5. The Chakbandi Officer, Karghar, Rohtas.
6. The Circle Officer, Karghar, Rohtas.

... .. Respondents

=====

Appearance :

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

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 25-06-2018

Heard Mr. Deepak Kumar, learned counsel for the petitioner and Mr. Raj Kishore Roy, learned G.P.-18 for the respondent-State.

The present writ application has been preferred with two reliefs, firstly (I) for quashing the notice dated 08.04.2018, issued under the signature of Respondent No. 4, the Circle Officer, Kochas in Encroachment Case No. 07 of 2017-18, as contained in Annexure-1, whereby the petitioner along with two other persons, namely, Din Dayal Ram and Pintu Paswan have been directed to remove the encroachment from the land, appertaining to Revenue Thana No. 752, Plot Nos. 1911, 1912,1913, situated in Mauza Kochas, District Rohtas, by 14.05.2018, failing which the



encroachment would be removed by deployment of force and the cost of removal of the same will be realized from the encroachers.

(II) for quashing the order dated 06.04.2018 and 10.04.2018, passed in Appeal No. 57 of 2017-18, by Dy. Director, Consolidation, Rohtas at Sasaram, as contained in Annexure-5, whereby order dated 24.11.1984, passed by Consolidation Officer, Kargahar, in Case No. 88 of 1983-84 has been set aside, whereby the petitioner's name was directed to be recorded in the Khatiyan with regard to Khata No. 752, Plot Nos. 1911 and 1912, situated in Mauza Kochas.

Learned counsel for the petitioner seeks permission to withdraw the present writ application with regard to prayer no.2 to avail the remedy of Revision before the appropriate forum.

Permission is accorded.

Accordingly, the petitioner is permitted to withdraw the present writ application, so far as prayer no.2 is concerned.

So far as prayer no.1 is concerned, since admittedly, the land in question at present, is recorded in favour of State of Bihar, hence it has the character of public land which is sine quo non for initiation of encroachment proceeding under Section 3 of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'). Moreover, there is nothing on record to suggest that



the petitioner had appeared in the proceeding and submitted his defence. Hence, this Court is not inclined to interfere with the notice issued in Encroachment Case No. 07 of 2017-18, as contained in Annexure-1

In the circumstances, the present writ application is disposed of with liberty to the petitioner to raise his grievances before the appropriate forum, as there is provision of appeal under Section 11 of the Bihar Public Land Encroachment Act, 1956.

If the petitioner files such appeal along with the petition for condonation of delay, within a period of two weeks from the date of receipt/production of a copy of this order, the Appellate Authority may consider the appeal of the petitioner after considering the condonation of delay in filing such appeal in view of the fact that the writ application was pending before this Court.

In the meantime, let status quo with regard to land in question be maintained for three weeks from the date of receipt/production of a copy of this order.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

