

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22839 of 2018

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Rustam Ansari, s/o- Late Jagi Ansari, resident of village Belaon, P.O.-
Kharendra, P.s.- Belaon, District- Kaimur at Bhabhua.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Commissioner, Patna.
3. The District Magistrate, Kaimur at Bhabhua.
- 4.D.C.L.R., Kaimur at Bhabhua.
5. S.D.O., Kaimur at Bhabua.
6. Circle Officer, Rampur, Kaimur at Bhabua.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uday Pratap Singh
For the Respondent/s	:	Mr. Sajid Salim Khan -Sc25

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 03-12-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

Following relief(s) have been sought for in paragraph
1 (i) and 1(ii) of the writ application:

(i) For issuance of writ in the nature of certiorari or
any other appropriate writ, for setting aside notice dated
11.10.18 and 17.11.2018 passed in Encroachment Case No.
10/2017-18 by Circle Officer, Rampur (Kaimur) with regard to
Mauza Belaw, Khata No. 734/234 Khesra No. 1017 area 03
decimal Gaimajarua Aam.

(ii) For issuance of writ in the nature of Mandamus or
any other appropriate writ, order, direction for commanding the



respondent that pending this writ application packa house of the petitioner standing for last 70 years be not demolished as well as respondent be directed to declare the right, title and interest of the land by the competent court before taking the harsh order of demolition.”

Counsel for the petitioner submits that the petitioner is a resident of Mauza Belaw and had made pucca residential house over the land in question measuring 3 decimals on khata no. 234, Khesra No. 1017, Mauza Belaw. The petitioner submits that a notice under Section 6(2) of the Bihar Public Land Encroachment Act has been issued in Encroachment Case No. 10/2017-18 by Circle Officer, Rampur (Kaimur) and the said notice is under challenge. The said notice is not as per Form-II of the Bihar Public Land Encroachment Act, hence the same is bad in the eyes of law. After receiving the notice, the petitioner had filed a Revision Case No. 38/2018 for correction of Revisional Survey Khatian and chak khatian before the Director, Consolidation, Patna, Bihar. The Director, Consolidation, vide order dated 13.2.2018 admitted the application, issued notice to the respondent and granted status quo in favour of the petitioner. The State respondents have not appeared in the aforesaid proceeding. Hence, no final order has



been passed in Revision Case No. 38/2018. By order dated 8.5.2018, a report was also called for from the Circle Officer, Rampur by the Director, Consolidation. Counsel for the petitioner submits that for his livelihood, the petitioner is residing at Ahmadabad and not at his native village. The petitioner had no knowledge regarding the proceeding under the Bihar Public Land Encroachment Act.

The land in question was settled in favour of father of the petitioner Jagga Bhat in the year 1944 by the Ex-landlord. All these facts could not be brought to the notice of the Circle Officer, Rampur by the petitioner when the notice was issued under Section 3 of the Act.

On behalf of the State, it is submitted that the petitioner has encroached upon the land in question. It appears that the notice as contained in Annexure-1, though appears to have been issued under Section 6(2) of the Act but it is not in Form-II as prescribed under the Act.

Under the circumstances, the notice dated 11.10.2018 as contained in Annexure-3 to the present application issued under the signature of the Circle Officer, Rampur (respondent no. 6) in Encroachment Case No. 10/2017-18 is hereby quashed as the said notice is not in the prescribed manner as provided



under the Act and further no compliance of Sections 4 and 5 has been made. It is expected that the Circle Officer, Rampur will issue notice under Section 3 in Form-I of the Act and after giving opportunity of hearing to all the affected persons under Sections 4 and 5 of the Act, pass final order under Section 6(1) of the Act within a period of three months from the date of issuance of notice under Section 3 of the Act. In case, order under Section 6(1) of the Act has already been passed, the petitioner will be at liberty to prefer an appeal under Section 11 of the Act within a period of 30 days raising his grievances. The appellate authority shall dispose of the appeal in question within a period of three months from the date of filing of such appeal.

With the aforesaid observation/liberty, the writ application stands disposed of.

(Sudhir Singh, J)

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