

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4958 of 2018

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Jugal Kishor Choudhary, S/o Late Bunela Choudhury, R/o
Village- Dharamganj, Ward No. 11, Vivekanand Nagar, P.O. +
P.S.- Kishanganj, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Land and Revenue, Government of Bihar, Patna.
2. The Collector, Kishanganj.
3. The Executive Officer, Nagar Parishad, Kishanganj.
4. The Executive Engineer, Public Works Department (PWD) Kishanganj.
5. The Sub-Divisional Magistrate, Kishanganj.
6. The Circle Officer, Kishanganj.
7. Anchal Amin, Kishanganj.
8. Sandhya Golcha, W/o Sri Raj Kumar Golcha, R/o Dinajpur Road, Caltex Chowk, P.O. + P.S.- Kishanganj, District- Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Adv
For Kishanganj	:	Mr. Bindhyachal Rai, Adv
Nagar Parishad		
For the State	:	Mr. Rishi Raj Sinha -SC-19

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-09-2018

1. By way of this petition under Article 226 of the



Constitution of India, the petitioner has prayed for an appropriate relief for setting aside the order dated 14.12.2017 passed by the Collector, Kishanganj in Encroachment Appeal No. 03 of 2016, by which, the First Appellate Authority has dismissed the said appeal preferred by the petitioner and confirmed the order dated 11.02.2015 passed by the Sub-Divisional Magistrate, Kishanganj in Encroachment Case No. 04 of 2014-15.

2. It is clearly contended on behalf of the petitioner that petitioner is tenant of respondent No. 8. It is contended that when the survey was done, the same was not done in presence of the petitioner. It is further submitted that the construction is a *Pakka* construction and therefore, the same may not be removed.

3. Having heard learned counsel for the respective parties and considering the orders passed by the Sub-Divisional Magistrate as well as the Collector, Kishanganj under the provisions of the Bihar Public Land Encroachment Act, 1956, it appears that the impugned



orders have been passed actually in consonance with the provisions of the Act, 1956 and sufficient opportunity has been given to the petitioner and thereafter the order has been passed by the First Appellate Authority confirming the order passed by the Sub-Divisional Magistrate.

3.1 The concurrent finding of facts given by both the authorities is that there is an encroachment on the Government land to the extent of 200 square feet, on which the respondent No. 8 has put up the shops which have been rented to the petitioner and others.

3.2 It is required to be noted that the finding recorded by both the authorities is on the basis of the survey which has not been challenged by the owner of the shops namely respondent No. 8. The same has been elaborately dealt with and considered by the First Appellate Authority in the impugned order.

3.3 At this stage, it is required to be noted that even before the First Appellate Authority, it was alternatively submitted on behalf of the petitioner and others that as



they are the tenants, the construction may not be removed and they may pay the rent to the Government. The same has rightly not been accepted by the appropriate authority, more particularly, the First Appellate Authority.

4. Considering the aforesaid circumstances, we see no reason to interfere with the impugned order passed by the appropriate authority under the provisions of the Bihar Public Land Encroachment Act, 1956.

5. With this, the petition stands dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24/09/2018
Transmission Date	

