

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15747 of 2018

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Sadhu Mahto, S/o- Late Gauri Shankar Mahto, R/o-Village- Kishani Chak,
P.S.- Ishipur, Barahat, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner, Bhagalpur Division.
3. The District Magistrate, Bhagalpur.
4. The Circle Officer, Pirpainti, Bhagalpur.
5. Surendra Mahto, S/o- Nageshwar Mahto, R/o- Village- Kishani Chak, P.S.-
Ishipur, Barahat, District- Bhagalpur.

... .. Respondent

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Appearance :

For the Petitioner/s : Mr. Digvijay Kumar Ojha, Adv.
For the Respondent/s : Mr. Rishi Raj Sinha, SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 13-08-2018

Learned counsel for the petitioner is permitted to make
necessary correction in the petition.

Heard Mr. Digvijay Kumar Ojha, learned counsel for
the petitioner and Mr. Akhilesh Kumar Sinha, learned AC to SC 19
for the respondent-State.

Though, the present writ application was registered on
08.08.2018, but in view of the nature of order this Court intends to
pass, this Court is neither inclined to adjourn the matter any further
nor inclined to issue notice to private Respondent No.5.

The present writ application has been filed for a
direction to the respondent authorities to stay the operation of the
order dated 31.07.2018, passed in Encroachment Case No. 03 of
2018-19, by Respondent No. 4, the Circle Officer, Pirpainti, as



contained in Annexure-6, till the disposal of the appeal preferred by the petitioner before Respondent No. 3, the District Magistrate, Bhagalpur, against the said order of Respondent No.4, the Circle Officer, Pirpainti.

It is submitted by learned counsel for the petitioner that the land appertaining to Khata No. 440, Plot No. 1056, Revenue Thana No. 107, situated at Mauza Udaipur, P.S. Ishipur, Barahat, District Bhagalpur, is recorded in Revenue Records of Right as Anabad Bihar Sarkar, however, the petitioner's grand-father constructed a residential house since last 70 to 80 years and since then the ancestors of the petitioner and thereafter the petitioner have been residing over the land in question. Though on a part of the said land, several persons including the petitioner have constructed their houses, but the encroachment proceeding has been initiated only against the petitioner at the behest of Private Respondent No.5, Surendra Mahto, which is numbered as Encroachment Case No. 03 of 2018-19 and ultimately final order was passed in the said proceeding on 31.07.2018, whereby the petitioner was declared as encroacher and was directed to remove the encroachment from the land in question by 07.08.2018, failing which the same would be removed by 09.08.2018. The petitioner has preferred an appeal before Respondent No.3, the District



Magistrate, Bhagalpur, against the order dated 31.07.2018, passed in Encroachment Case No. 03 of 2018-19, by Respondent No.4, the Circle Officer, Pirpainti, as contained in Annexure-6, but it has neither been numbered till date, nor it has been heard and the threat of his residential house being demolished is looming large over the petitioner.

It is further submitted that the malicious approach of Respondent No.4, the Circle Officer, Pirpainti, gets reflected from the fact that he issued a notice under Section 6(2) in Form II of the Bihar Public Land Encroachment Act, 1956, on 09.07.2018, as contained in Annexure-2, whereby the petitioner was directed to remove the encroachment from the land in question within fifteen days, whereas the final order was passed about three weeks thereafter on 31.07.2018, as contained in Annexure-6.

It is further submitted that till date, the residential house of the petitioner has not been demolished.

Learned AC to SC 19 submits that if the appeal of the petitioner has not been heard till date, then it will be heard and disposed of within a time frame.

Considering the rival submissions of the parties, without expressing any opinion on the merits of the case, it is expected from Respondent No.3, the District Magistrate, Bhagalpur, to



disposed of the appeal of the petitioner within a period of six weeks from the date of receipt/production of a copy of this order, considering the issue involved in the matter. If there is any impediment in disposing of the appeal of the petitioner, within six weeks, Respondent No.3, the District Magistrate, Bhagalpur, will consider the prayer of the petitioner for stay of the order dated 31.07.2018, passed in Encroachment Case No. 03 of 2018-19, by Respondent No.4, the Circle Officer, Pirpainti, as contained in Annexure-6.

For next six weeks from today, the status quo with regard to residential house of the petitioner, as is existing today, shall be maintained.

Accordingly, with the above observation, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.08.2018
Transmission Date	

