

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6388 of 2018

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Shamim Ahmed Khan, S/o Late Syeed Khan, Resident of Maulaganj, Ward No.-28,
P.S.-Laheriasarai, P.O.-Lalbagh, District-Darbhanga, Presently-in-Charge Mutwali,
Jama Maszid, Rahamganj Noka No. 6 P.S.-Laheriasarai, Darbhanga, District-
Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department Revenue of Land Reforms, New Secretariat, Patna.
3. The District Magistrate-cum-District-Collector, Darbhanga.
4. The Deputy Collector Land Reforms, Darbhanga.
5. The Circle Officer, Sadar, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Krishna, Adv.

For the Respondent/s : Mr. Sajid Salim Khan- SC25

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 09-10-2018

Heard Mr. Abhay Krishna, counsel for the petitioner and
Mr. Sajid Salim Khan, learned SC-25 for the State.

The petitioner prays for issuance of a writ in the nature of
certiorari for quashing the notice dated 28.12.2017 issued by the
Circle Officer, Sadar, Darbhanga, in exercise of powers vested under
the Bihar Public Land Encroachment Act, 1956 (hereinafter referred



to as 'the Act'), whereby he has been asked to remove the encroachment present at Khesra No. 24471, 24474 and 24465 admeasuring an area of 1 katha 2 dhurs situated at Rahamganj Naka No. 6 in the District of Darbhanga.

In reference to the counter affidavit, it is submitted by Mr. Khan, learned State Counsel that the suit was filed by the previous Motwali seeking declaration from the Court below bearing Title Suit No. 27 of 2002 was dismissed vide judgment and decree dated 08.09.2010/20.09.2010 and even the Title Appeal preferred by the said plaintiffs bearing T.A. No. 54 of 2010 has been dismissed vide judgment and decree dated 23.03.2017/27.03.2017. According to the State, it is having lost the battle before the civil court and when the encroachment proceeding in question was initiated that they have taken recourse of the remedy of the writ petition. It is stated that the land in question belongs to the Darbhanga Medical College and Hospital and since the suit filed by the earlier Motwali for establishing the right, title and interest over the suit property in question has been dismissed, no infirmity can be found in the order passed by the statutory authority in the encroachment proceeding.

Mr. Krishna, learned counsel for the petitioner attempts to contest the position by submitting that the land in question is a valid purchase by the predecessor-in-interest but in our opinion, the



purchase having already been tested in a duly constituted suit before the civil court and the plaintiffs having failed to persuade the court below in establishing their title over the property in question, no infirmity can be found in the action complained and we are certainly not persuaded to interfere with the orders passed by the Collector under ‘the Act’.

The writ petition is dismissed.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Priyanka/Devendra

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

