

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14480 of 2018

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Sudarshan Jha, S/o-Krishna Bhagwan Jha, Resident of Vill.-Pauram, P.S.-
Hayaghat, Distt.-Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reform Department, Bihar, Patna.
2. The District Magistrate-cum-Collector, Darbhanga.
3. The Circle Officer, Hayaghat, Darbhanga.
4. The Superintendent of Police, Darbhanga.
5. The Sub-Divisional Officer, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Kaushalesh Choudhary and Shambhu Nath Jha, Advocates
For the State	:	Mr. Sajid Salim Khan -SC 25

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-08-2018

1. The present petition has been preferred by the petitioner herein for appropriate order / direction to remove the encroachment from the public roads/lands, the particulars of which are given in paragraph 6 of the petition.

2. Heard learned counsel appearing for the respective parties.

3. At the outset, it is required to be noted that on the application submitted by the petitioner, one case being Case No. 05/17-18 under the provisions of the Bihar Public Land



Encroachment Act, 1956 (hereinafter referred to as “the Act”) is registered, which is pending before the Circle Officer, Hayaghat. However, it is appreciated that in view of the order passed by the Circle Officer, Hayaghat dated 07.08.2018, he has already prejudged the matter and, in fact, has vacated the earlier stay granted. It is, therefore, requested that, in the facts and circumstances of the case, the powers under the Act may be exercised by the District Magistrate, who is also having the powers to consider the proceedings under the Act.

4. Having heard learned counsel for the respective parties and in the facts and circumstances of the case, more particularly the fact that the proceedings under the Act at the instance of the petitioner have already been initiated, we refuse to entertain the present petition in exercise of the power under Section 226 of the Constitution of India.

4.1. However, in the facts and circumstances of the case, the District Magistrate, Darbhanga is hereby directed to transfer the Case No. 05/17-18 to his office and pass an appropriate order on the said application/case after giving opportunity to all the concerned including the petitioner, i.e., original applicant and the alleged encroachers and after following due procedure under the Act, to be completed within a period of 8 weeks from today.



4.2. It goes without saying that, thereafter, if any parties aggrieve by the order that may be passed by the District Magistrate, it might be open for the aggrieved party to take recourse to law and such proceedings should be considered in accordance with law and on merit.

5. With the aforesaid directions, the present petition is disposed of.

(Mukesh R. Shah, CJ)

(Dr. Ravi Ranjan, J)

Sanjay/-Spd

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2018
Transmission Date	NA

