

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.717 of 2018

In
Civil Writ Jurisdiction Case No.22659 of 2013

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Ajay Kumar Thakur @ Ajay Thakur, S/o Raj Narayan Thakur, R/o Gayatri Bhawan, Sarvodaya Nagar, P.S. - Begusarai, District - Begusarai through his cousin brother and Power of Attorney Holder Shobha Kant Thakur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna Sh. Anjani Kumar Singh and
2. The Collector-cum-District Magistrate, Begusarai, Bihar Md. Naushad Usuf.
3. The Circle Officer, Matihani, Begusarai, Bihar Sh. Sushil Mishra.
4. The Commissioner, Munger Commissioner, Munger, Bihar Sh. Pankaj Kumar Pal

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Singh, Adv.

For the Opposite Party/s : Mr. Majid Mehboob Khan, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 20-09-2019 Heard learned counsel for the petitioner and the respondents.

The present miscellaneous jurisdiction application has been filed for initiating a proceeding of contempt against opposite parties for deliberate and willful violation of the order dated 28.02.2017, passed by this Court in CWJC No. 22659 of 2013.

The factual matrix of the case is that, Ajay Kumar Thakur @ Ajay Thakur, preferred the writ application, being CWJC No.22659 of 2013, basically for getting the



encroachment removed from Survey Plot No.1093, in view of the provisions of the Bihar Public Land Encroachment Act.

During hearing of the writ application, it was submitted by learned AC to GP-24 that for removal of encroachment from the land in question, though Encroachment Case No.1 of 2009-10 has been initiated by the Circle Officer, Matihani, but it has not been concluded as yet. In that circumstances, the respondent nos. 2, the Collector-cum-District Magistrate, Begusarai and respondent no.3, the Circle Officer, Matihani, Begusarai were directed to get the proceeding of Encroachment Case No. 1 of 2009-10 concluded within a period of four months in accordance with the provisions of the Bihar Public Land Encroachment Act. The operative portion of the order reads as under :-

“.....Learned counsel for the state-respondent further submits that the Encroachment Case No.01/2009-10 has not been concluded as yet.

In view of the fact that Miscellaneous Case No.79 of 2009 has been disposed of and Encroachment Case No.01/2009-10 has not been concluded, the writ application appears to be premature. It is not only surprising but shocking to the Court that encroachment proceeding is pending since last about seven years.

Under the circumstances, the writ application is disposed of with a direction to the respondent nos.2 and 3 to get Encroachment Case No.1/2009-10 concluded within a period of four months in accordance with the provisions of Bihar Public Encroachment Act.

Accordingly, the writ application is disposed of.”



In the supplementary show cause, dated 03.09.2019, filed on behalf of opposite party nos.2 and 3, the order dated 23.07.2019, passed in CWJC No.13536 of 2019, has been brought on record. The said writ application has been filed by one of the affected person, namely, Mahesh Thakur, for seeking a liberty to prefer an appeal against the final order dated 09.08.2016, passed under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 in Encroachment Case No. 1 of 2009-10, by the Circle Officer, Matihani. The said writ application was disposed of by giving liberty to said Mahesh Thakur to file an appeal under Section 11 of the Bihar Public Land Encroachment Act, 1956 against the final order dated 09.08.2016. The operative portion of the order aforesaid reads as under :-

“Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel for the parties, I deem it fit and proper to grant liberty to petitioner to file an appeal under Section 11 of the Bihar Public Land Encroachment Act, 1956, against the aforesaid order dated 09.08.2016, whereupon the appeal of the petitioner shall be considered on merits without the appellant authority being impeded by the issue of limitation and the appellate authority would also consider the issue of the said order dated 09.08.2016 being antedated.

With the aforesaid observations, the



writ petition stands disposed of.”

The above mentioned facts suggest that a wrong submission was made on behalf of counsel for the State that proceeding of Encroachment Case No. 1 of 2009-10 has not been concluded as yet. Since the final order dated 09.08.2016 has been passed in Encroachment Case No. 1 of 2009-2010, the writ order dated 28.02.2017, passed in CWJC No 22659 of 2013 becomes meaningless, so is the present miscellaneous application.

Accordingly, the present miscellaneous application is disposed of.

However, the petitioner would be at liberty to agitate his grievance in appeal, if so filed, in pursuance to the order dated 23.07.2019, passed in CWJC No. 13536 of 2019.

(Dinesh Kumar Singh, J)

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