

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1179 of 2019

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Arun Kumar Singh, Son of Late Surendra Singh, Resident of Mohalla- Digha,
P.S. Digha, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through Commissioner, Patna Division.
2. Commissioner, Patna Division.
3. The District Magistrate, Patna.
4. Sub-Divisional Officer, Patna Sadar.
5. Circle Officer, Patna Sadar.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Dhananjai Kumar Singh, Advocate.
For the Respondents : Mr. Raj Kishore Roy, G.P. 18.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 17-01-2019 Heard learned counsel for the petitioner and learned
counsel for the respondents.

The following reliefs have been sought for by the
petitioner in the present writ application.

“1 (I) For quashing the Letter dated 08.12.2018 (Annexure-1) issued by Circle Officer, Patna Sadar in Land Encroachment Case No. 39/18-19, by which he has directed the petitioner to remove encroachment from Khesra No. 613 of Mohalla-Dujra/04, Joint Area 05 Acre and 02 Decimal.

(II) For holding that, impugned letter is not sustainable in the eye of law, as the same has been issued, in complete violation of the Doctrine of Natural Justice.

(III) For holding that, impugned order has been passed in utter violation of the provisions of Bihar Public Land Encroachment Act.



(IV) For holding that, impugned order has been passed by the Respondent, completely behind (without any notice or hearing in any manner) the back of the petitioner.

(V) For holding that, before issuing the aforesaid impugned order under Section 6(2) of the Act, Circle Officer, Patna Sadar, should have mandatorily issued a notice under Section 3 of the Bihar Public Land Encroachment Act, to the petitioner.

(VI) For holding that, no order under Section 6(2) of the Bihar Public Land Encroachment Act, can be passed directly against a person, without issuance of notice under Section 3 of the Act, as well as without giving an opportunity to produce defence under Section 4 and thereafter hearing a person under Section 5 of the Act.

(VII) For considering that, petitioner has been in peaceful possession over the disputed land, for more than, 60 years, by virtue of a registered sale deed executed in the year of 1956 in favour of his late father and uncle.

(VIII) For also considering that, petitioner has been paying rent to the Government as well as holding tax to the Patna Municipal Corporation, continuously.

(IX) For considering that, with regard to same Plot No. 613, this Hon'ble High Court has already held (in C.W.J.C. No. 3907/1988) that the same was a Gair Majarua Malik land and portions of Khata No. 613 has been subjected to land acquisition and followed by payment of compensation also.

(X) For holding that, no action can be taken against the petitioner without duly cancelling the registered sale deed, by virtue of which he has been enjoying peaceful possession over the same for more than 60 years.



(XI) For holding that, a long standing settlement on the basis of which, ancestors of the petitioner has purchased the said land, in the year of 1956, cannot be cancelled in a summary proceeding.

(XII) For considering that, with regard to the same Plot No. 613, this Hon'ble High Court has already instructed the State Government to file a Civil Suit, for adjudication of the dispute in the year of 1988 itself, but the same has not been followed by the State Government till today.

(XIII) For holding that, petitioner cannot be evicted by the Respondents, in such a summary and unlawful manner.”

It has been submitted by learned counsel for the petitioner that a final order under Section 6 of the Bihar Public Land Encroachment Act has been passed without complying with the provisions under Sections 3, 4 and 5 of the Act.

Considering the submissions made on behalf of the petitioner, the petitioner is directed to prefer an appeal under Section 11 of the Act, against the order under challenge within a period of thirty days from today. The Appellate Authority shall consider the appeal filed on behalf of the petitioner in accordance with law and pass a final order at the earliest preferably within a period of three months from the date of filing of such appeal.

Till disposal of appeal, status-quo is to be maintained.

With the aforesaid observations and directions, the



present writ application stands disposed of.

(Sudhir Singh, J)

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