

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1420 of 2019

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Surendra Singh, Son of Dineshwar Singh, Resident of Village- Fadarpur, P.O
and P.S-Angrahi District- Aurangabad.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Aurangabad.
3. The Sub- Divisional Officer, Daudnagar, Aurangabad.
4. The land Reforms Deputy Collector, Daudnagar, Aurangabad.
5. The Anchal Adhikari, Daudnagar, Aurangabad.
6. Bishwanath Singh, Son of Janardan Singh, Resident of Village-Fadarpur, P.O
and P.S Angrahi, District- Aurangabad.
7. Nawal Singh.
8. Ram Pukar Singh. Sl. Nos. 7 and 8 both sons of Late Rajnath Singh, Resident
of Village-Fadarpur P.O and P.S-Angrahi District-Aurangabad.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Anil Kumar Sinha, Advocate.
For the Respondents : Mr.Sajid Salim Khan, S.C. 25.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 28-01-2019 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 issuance of a writ in the nature of certiorari to quash the notice dated 27.10.2018 issued under the signature of Circle Officer, Daudnagar, Aurangabad, by which even without initiating any proceeding under the Bihar Public Land Encroachment Act (hereinafter Act) the petitioner has been directed to remove the encroachment although there is no



such encroachment. The Circle Officer, only on the direction of the S.D.O. Daudnagar, has taken such action.

(ii) For directing the concerned respondent authorities to resort as per procedure as prescribed under the Act and only after giving sufficient opportunity any step be taken.

(iii) For further directing the respondent authorities not to proceed further pursuant to notice dated 27.10.2018.”

It has been submitted by learned counsel for the petitioner that a notice dated 27.10.2018 has been issued by the respondent no. 5 i.e. The Anchal Adhikari, Daudnagar, Aurangabad, upon the petitioner vide Annexure-2 to the present writ application in respect of removal of encroachment from the public land relating to Khata No. 121 and Khesra No. 177. The said notice, vide Annexure-2 to the present writ application, does not indicate whether the said notice has been issued under Section 3 or Section 6 of the Bihar Public Land Encroachment Act.

The contention made on behalf of the petitioner is that the said notice dated 27.10.2018, vide Annexure-2 to the present writ application, has been issued without following the procedure as laid down under the Bihar Public Land Encroachment Act. No opportunity was given to the petitioner



for submitting the documents/papers in respect of land in question nor he was given any opportunity of hearing as provided under Section 4 of the Act. The measurement of the land in question has taken place in absence of the petitioner.

Considering the submissions made on behalf of the parties, the notice dated 27.10.2018, issued by The Anchal Adhikari, Daudnagar, Aurangabad, vide Annexure-2 to the present writ application, is set aside as the said notice has been issued in violation of principle of natural justice and without following procedure as laid down under the Act.

The petitioner is directed to appear on 15.02.2019 at 11.30 A.M. in the office of the respondent no. 5 The Anchal Adhikari, Daudnagar, Aurangabad, in compliance of Section 4 of the Act. No fresh notice under Section 3 of the Act will be required as the proceeding under the Bihar Public Land Encroachment Act is much within the knowledge of the petitioner. The respondent no. 5 The Anchal Adhikari, Daudnagar, Aurangabad, shall fix the date for hearing in compliance of Section 5 of the Act issuing notice to all concerned parties and after giving opportunity of hearing shall pass an appropriate order under Section 6 of the Act within a period of three months from the date of appearance i.e.,



15.02.2019.

With the aforesaid observations and directions, the
present writ application stands disposed of.

(Sudhir Singh, J)

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