

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5964 of 2019

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Kaushal Kishore Son of Late Rajendra Singh Resident of Village-Mustafapur,
P.O. Bhakhari, P.S. Dhanarua, District Patna, PIN 804451

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Patna
2. The District Magistrate-Cum-Collector, Patna
3. The Additional District Magistrate Patna
4. The Sub-Divisional Magistrate, Masaurhi, Patna
5. The Circle Officer, Dhanarua, Patna
6. Sri Umesh Sharma Son of Late Tadu Singh Resident of Village Mustafapur,
P.S. Dhanarua, District-Patna

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 7333 of 2019

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Umesh Sharma Son of Late Yadu Singh, Resident of Village Mustafapur, P.S.
Dhanarua, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar .
2. The District Magistrate- cum-Collector, Patna.
3. The Additional District Magistrate, Patna.
4. The Sub Divisional Magistrate, Masaurhi, District- Patna.
5. The Circle Officer, Dhanarua, District- Patna.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 5964 of 2019)

For the Petitioner/s : Mr.Bipin Bihari Singh

For the Respondent/s : Mr.Subash Chandra Yadav (Gp15)

(In Civil Writ Jurisdiction Case No. 7333 of 2019)

For the Petitioner/s : Mr.Arvind Kumar

For the Respondent/s : Mr.Raj Kishore Rai (Gp18)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 06-09-2019

In the first case, the petitioner has prayed for



removal of encroachment made over the public land i.e. Plot No. 395, Khata No. 125, Khesra No.395, Mauza- Mustafapur, Dhanarua, Patna.

2. The learned counsel for the petitioner has referred to an order passed by the learned Division Bench of this Court dated 22.11.2018 passed in CWJC No. 21511 of 2018, in a writ petition filed by the petitioner in the 2nd case, wherein the learned Division Bench in the order dated 22.11.2018 has directed as follows:-

“Consequently, we quash the order insofar as it relates to the petitioner dated 15th October, 2018 as well as consequential notice dated 8th November, 2018 and call upon the respondents to consider the objection filed by the petitioner dated 19th November, 2018 and then pass an appropriate order in accordance with law, preferably within a period of six weeks from today. The petitioner shall cooperate with the respondents in the disposal of the said matter.

The writ petition stands allowed subject to the aforesaid observations.

A certified copy of this order shall be issued to the learned counsel for the petitioner on payment of usual charges urgently today.



The counsel for the State shall communicate this order to the concerned authorities accordingly”.

3. It is the submission of the learned counsel for the petitioner of the first case that the petitioner of the 2nd case has filed an objection before the District Magistrate, Patna, hence, in such view of the matter, in compliance of the aforesaid directions issued by the learned Division Bench of this Court to the respondents to consider the objection filed by the petitioner dated 19th November, 2018 and then pass an appropriate order in accordance with law, preferably within a period of six weeks from 22.11.2018, the Respondents have failed to pass a final order till date, hence have disobeyed the orders of this Court.

4. The learned counsel for the petitioner in the 2nd case has submitted that in pursuance to the order dated 22.11.2018 passed in CWJC No. 21511 of 2018, the Circle Officer, Dhanarua, Patna has issued a notice to the petitioner and others in connection with Encroachment case No. 4 of 2018-19, directing the petitioner and others to file show cause reply by 24.12.2018. It is further submitted that the petitioner had then filed his show cause reply on 25.12.2018, whereafter the Circle Officer, Dhanarua, Patna had issued a notice dated



7.3.2019 for removal of the encroachment in question.

5. I have heard the learned counsel for the parties as also heard the learned counsel appearing for the State. This Court finds that though the Circle Officer, Dhanarua, Patna had rightly acted in terms of the order dated 22.11.2018 passed by the learned Division Bench of this Court in CWJC No. 21511 by issuing show cause notice dated 5.12.2018, although no fresh notice was required to be issued since the learned Division Bench of this Court had directed to consider the objection filed by the petitioner of the 2nd case on 19.11.2018, nonetheless, since the Circle Officer, Dhanarua, Patna has taken re-course to the appropriate requirements of law, this Court has no quarrel, however, after the filing of the show cause reply by the petitioner herein, the Circle Officer, Dhanarua, Patna was required to pass a final order in terms of Section 6(1) of the Bihar Public Land Encroachment Act, 1956, but instead of passing the final order, the Circle Officer, Dhanarua, Patna has directed the petitioner and others to remove the encroachment in question.

6. This Court is of the considered view that it was incumbent upon the Circle Officer, Dhanarua, Patna to pass the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 in connection with Encroachment Case



No. 4 of 2018-19 before proceeding to issue notice regarding removal of the encroachment in question. Thus, it is directed accordingly and the Circle Officer, Dhanarua, Patna is granted time upto 18.10.2019 to pass the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956.

7. It is made clear that till the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 is passed, status quo existing as on today shall be maintained, qua the property in question.

8. It is further directed that the final order, as aforesaid, to be passed under section 6(1) of the Bihar Public Land Encroachment Act, 1956, by the Circle Officer, Dhanarua, Patna shall be duly communicated to the petitioners herein and other effected persons in connection with Encroachment Case No. 4 of 2018-19.

9. Accordingly, the present writ petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

