

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7792 of 2017

Nesar Ahmad son of late Aas Mohammad, Resident of Mohalla barah paththar in front of Pani Tanki, Baguganj Dehri, Police Station Dehri, District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Revenue and Land Reforms Department, Government of Bihar, Old Secretariat Building, Patna-800 015.
2. The District Magistrate, Rohtas at Sasaram-cum-Second Appellate Forum.
3. The Additional Collector Public Grievance Redressal Rohtas at Sasaram -cum- First Appellate Forum.
4. The Sub-Divisional Public Grievance Redressal Officer, Dehri, District Rohtas at Sasaram .
5. The Sub Divisional Magistrate, Dehri, District Rohtas at Sasaram.
6. The Circle Officer, Dehri District Rohtas at Sasaram.
7. Ekram Ansari, son of Late Md. Abbas Ansari, resident of Mohalla Barah Paththar in front of Lal Art, Ward No. 36, Dehri Police Station Dehri, District Rohtas at Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar Garg, Adv.
For the Respondent/s	:	Mr.Sajid Salim Khan- Sc25
		Ms. Prakritita Sharma, AC to SC-25

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

6 07-11-2019 The present writ petition has been filed for quashing the order dated 29.04.2017 passed by the Sub-Divisional Officer, Dehri whereby and whereunder the Sub-Divisional Officer, Dehri has deputed a Magistrate and has also requisitioned police force for removal of the encroachment made by the petitioner over the public land.

The learned counsel for the petitioner has submitted that the order passed by the Sub-Divisional Officer, Dehri is



wholly without jurisdiction, firstly for the reason that the earlier encroachment proceedings initiated vide Encroachment Case no. 5 of 2007-08 had culminated into closure of the proceeding vide order dated 18.05.2009 passed by the Sub-Divisional Officer, Dehri, being satisfied with the reply of the petitioner, hence no new/ fresh encroachment proceedings can be initiated for the same cause of action or the same land and secondly on the ground that the public grievance redressal authority has got no power under the Bihar Right to Public Grievance Redressal Authority Act, 2015 to entertain any complaint pertaining to an encroachment made over the public/ Government land inasmuch as cases pertaining to encroachment over public/ government land is governed by the provisions of the Bihar Public Land Encroachment Act, 1956. It is further submitted that in any view of the matter, the said order dated 29.04.2017 is also illegal and perverse inasmuch as neither any proceeding has been initiated against the petitioner herein nor any opportunity of hearing has been granted to the petitioner by issuance of a show cause notice prior to the passing of the aforesaid order dated 29.04.2017, thus the principles of natural justice have been given a go-bye and on this ground as well, the said order dated 29.04.2017 is fit to be set aside.



The learned counsel appearing for the respondent State does not dispute the position as existing in law and canvassed, as aforesaid, by the learned counsel for the petitioner.

Having regard to the facts and circumstances of the case and for the reasons canvassed by the learned counsel appearing for the petitioner, the present writ petition stands allowed and the order dated 29.04.2017 passed by the Sub-Divisional Officer, Dehri is quashed. However, it is clarified that the respondent State authorities are not precluded from taking appropriate action in accordance with law.

(Mohit Kumar Shah, J)

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