

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15068 of 2013

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Vishwanath Dubey, son of late Ram Nagina Dubey, resident of village-
Mahuwari, Police Station- Buxar, District- Buxar at Buxar

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Buxar.
3. The Sub Divisional Officer, Buxar at Buxar.
4. The Land Reforms Deputy Collector, Buxar at Buxar.
5. The Circle Officer, Chousa Block at Chousa.
6. Kashi Nath Dubey, son of Ram Sigasan Dubey, resident of village-
Mahuwari, Police Station- Buxar, District- Buxar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uma Shankar Tiwary, Advocate
For the State	:	Mr. Pramod Kumar Singh, AC to SC-16
For Respondent No.6	:	Mr. Ashok Kumar Pathak, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT
Date : 27-05-2019

This writ application has been filed to quash the order dated 28.05.2013 passed by the DCLR, Buxar, in B.L.D.R. Case No.125 of 2012-2013 as contained in Annexure-7.

Counsel for the petitioner submits that he had filed petition before the SDO, Buxar, for initiating proceeding under Section 133 Cr.P.C. for removal of encroachment from the land made by respondent No.6. The SDO, Buxar, by order dated 01.04.2010 passed in Case No.347-M of 2009, as contained in Annexure-1, had directed the Circle Officer, Chousa, to pass appropriate order



after taking measurement of the land and if any encroachment is found after measurement of the land, he was directed to initiate a proceeding for removal of encroachment.

It appears that petitioner has filed necessary petition before the Circle Officer, Chousa, along with order of the SDO, Buxar, as contained in Annexure-1, but no order has been passed by the Circle Officer, Chousa. One report was sent by the *Anchal Amin* to the Circle Officer, Chousa, which is contained in Annexure-6, but the Circle Officer has not passed any order on the aforesaid measurement.

It appears that thereafter the petitioner filed necessary petition before the DCLR, Buxar, challenging the method adopted by *Anchal Amin* in measurement of the land as the same was done without giving any notice to the petitioner. The DCLR, Buxar, rejected the aforesaid petition filed by the petitioner.

This Court finds that the Circle Officer, Chousa, was first required to pass appropriate order on the basis of report of the *Anchal Amin*, as contained in Annexure-6, in compliance of the order passed by the SDO, Buxar, dated 01.4.2010.

The order passed by the DCLR, Buxar, after relying on the report of the *Anchal Amin*, as contained in Annexure-6, which was also challenged by the petitioner on the ground that the same was



done *ex parte* without giving notice, is not in accordance with law. Accordingly, order dated 28.05.2013 passed by the DCLR, Buxar, in B.L.D.R. Case No.125 of 2012-2013, as contained in Annexure-7, is hereby set aside.

The measurement done by the *Anchal Amin*, Chousa, as contained in Annexure-6, is *ex parte* report without giving notice to the petitioner. Therefore, aforesaid report as contained in Annexure-6 is also set aside.

The Circle Officer, Chousa, is directed to pass fresh order in accordance with law after getting the land measured afresh in terms of the order dated 01.04.2010 passed by the SDO, Buxar, in Case No.347-M of 2008. The measurement of land will be done after giving proper notice to the petitioner and in presence of both parties by competent *Amin*.

It is made clear that in the event any encroachment is found on the land, then the Circle Officer will pass appropriate order in accordance with law for initiating proceeding for removal of encroachment from the land done by respondent No.6.

The Circle Officer, Chousa, will pass appropriate order in terms of the direction made above by this Court within a period of two months from the date of receipt/production of a copy of this order.



This writ application is, accordingly, **allowed**.

(Sanjay Priya, J)

J. Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	28.05.2019
Transmission Date	N/A

