

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11234 of 2019

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Aravind Prasad Son of Late Jageshwar Prasad Resident of Bekapur
Chaukabajar, Police Station- Kotwali, District- Munger. At present R/o
Mohalla- Purabsarai Road near Durga Asthan, Police Station- Kotwali,
District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Devp. and
Housing Department, Bihar, Patna.
2. The Commissioner Munger Division, Munger.
3. The Collector, Munger.
4. The S.D.M. Munger.
5. The Circle Officer, Munger.
6. The Khas Mahal Officer, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mrigendra Pratap Singh
For the Respondent/s : Mr.Kinkar Kumar (SC-9)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 16-07-2019 The challenge of the petitioner in the present case is

to the notice issued under Section 3 of the Bihar Public Land

Encroachment Act, 1956 dated 07.05.2019.

The learned senior counsel for the petitioner submits
that without registering any case and initiating any proceedings
under the Bihar Public Land Encroachment Act, 1956, the
impugned notice dated 07.05.2019 has been issued by the
Circle Officer, Sadar, Munger, hence the notice itself is illegal.

This Court finds that despite the earlier order dated
17.06.2019, no counter affidavit has been filed. Thus this Court



is of the opinion that the Circle Officer, Sadar, Munger is required to first ascertain as to whether the land in question of the petitioner is a public land or not and in case he finds that the said land is a public land then proper encroachment proceedings are required to be instituted under the Bihar Public Land Encroachment Act, 1956 and upon issuance of notice to the encroachers, appropriate order under Section 6 of the Bihar Public Land Encroachment Act, 1956 is required to be passed.

Having regard to the facts and circumstances of the case, the notice dated 07.05.2019 issued by the Circle Officer, Sadar, Munger is quashed, however, with liberty to the Circle Officer, Sadar Mugner to take recourse to appropriate proceedings under the provisions of the Bihar Public Land Encroachment Act, 1956 and till the time final order is passed under Section 6 of the Bihar Public Land Encroachment Act, 1956, no coercive action shall be taken against the petitioner.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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