

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.446 of 2016

In
Civil Writ Jurisdiction Case No.6229 of 1998

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Ram Nath Singh S/o Late Baijnath Prasad Singh, Resident of Village-
Nawkothy, Police Station- Nawkothy, District- Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sub-Divisional Officer, Bakhari, Begusarai.
3. C.O. (Anchal Adhikary)-Bakhari-cum-Nawkothy, Begusarai.
4. Circle Inspector, Bakhari, Begusarai.

... .. Respondent/s

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Appearance :

For the Appellant/s : None

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

13 09-09-2019 No one is present to press this appeal.

2. Vide order dated 06-09-2019, we have made clear that if the appellant would remain absent on the next date of hearing, the Court will decide the case on its merit.

3. In the writ petition, the appellant has challenged the action of the State authority for demolishing the house in the name of removing encroachment made by the appellant over a piece of land appertaining to Khata no. 1528, Khesra no. 2867, area 12 dhurs situated at village Nowkothi, Sub-division Bakhari in the district of Begusarai.



4. The Circle Officer, who is the competent authority, had initiated an encroachment proceeding, vide Encroachment Case No. 3 of 1998-99, in which, the notice was given to the petitioner and ultimately the portion, which was under encroachment, has been removed.

5. From the record it appears that ex-landlord, Babu Ayodhya Prasad Singh had brought Title Suit No. 9 of 1929 in the court of Munsif-I, Begusarai for declaration of his right title and recovery of possession over plot no. 2867 area 2 kathas and rest of land as Gair-mazarua Aam land used as Aam Rasta, but defendants 1st set in collusion with other constructed the house over the said plot. The house was leased out to 2nd party. Hence the suit was filed for recovery of possession with mesne profit after demolishing the structure. Defendants of title suit were ancestors of appellant, but the aforesaid suit was finally dismissed by the judgment and decree dated 12th December 1932 and that decree was affirmed in appeal.

6. An Encroachment Case No.6 of 1986-87 was started with respect to different plots, including plot no.2867, in which, the father of the appellant was also made party, vide order dated 26.10.92, the proceeding against father of appellant was dropped, again, in the year 1996 a proceeding 133 of Cr.PC



was initiated against the father of appellant but dropped. On 05-07-1998, the Respondent authority came over the land in question and demolished his house standing over the said plot. The action has been challenged, submitting that it is completely an illegal and arbitrary action and they are entitled to compensation for the loss caused to the appellant, placing reliance on the different judgments.

7. The land in question in all revenue records has been recorded as 'Gair Mazarua Aam' land. In Encroachment Case No.6 of 1986-87, the land in question was also included, but was not declared as public land. There is no doubt that the land in question is a 'Gair Mazarua Aam' land. In Encroachment Case No. 3 of 1998-99, the Anchal Adhikari started an encroachment proceeding and refused to take into consideration the defence taken by the appellant that it is his own land. On notice, appellant did not appear, ultimately the action was taken by the Circle Officer. The learned single Judge set aside the order passed in Encroachment Case No.3/1998-99 and quashed the same with a liberty to the competent authority under the provisions of Bihar Public Land Encroachment Act, 1956 to start a fresh proceeding in accordance with law. If such a proceeding is started, the appellant would be at liberty to



produce documents and papers in support of his claim over the land in question and the proceeding would be brought to its logical conclusion.

8. So far as the claim of compensation for damages, liberty is granted to appellant to approach the civil court of competent jurisdiction to claim relief of compensation/damages.

9. In such view of the matter, we do not find any error in the order of learned single Judge and rightly the matter has been remanded back and liberty has been given to the appellant to file an appropriate suit for damage.

10. Accordingly this appeal is dismissed.

(Shivaji Pandey, J)

(Partha Sarthy, J)

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