

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20159 of 2016

Sanjay Kumar Thakur son of Sri Ram Ekbal Thakur, resident of Village and Post Office- Siriapur, Police Station- Basopatti, District- Madhubani.
... .. Petitioner/s

Versus

1. The State Of Bihar represented through Divisional Commissioner, Darbhanga Division, Darbhanga
2. District Magistrate, Madhubani.
3. Additional Collector, Madhubani.
4. Subdivisional Public Grievance Redressal Officer, Subdivision Jainagar, District- Madhubani.
5. Circle Officer, Basopatti, District- Madhubani.
6. Rama Shankar Thakur, son of Late Niranjan Thakur, resident of Village and Post Office Siriapur, P.S. and Anchal Basopatti, District- Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Thakur
	:	Mr. Udbhav
For the Respondent/s	:	Mr. Rakesh Kr. Shrivastava
For respondent no. 6	:	Mr. Binod Kr. Singh
	:	Vagisha Pragma Vacaknavi

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

9 25-06-2019 The present writ petition has been filed for quashing the order dated 16.09.2016 passed in Encroachment Appeal no. 31 of 2016-17, whereby and whereunder the appeal has been dismissed on the ground that the appeal has not been filed in the proper format and is *de hors* the provisions of the Land Encroachment Act.

It is argued by the learned counsel for the petitioner that the Circle Officer, Basopatti, Madhubani has already issued an order dated 12.09.2001 for removal of the encroachment.

Per contra, the learned counsel appearing for the



private respondent no. 6 submits that as far as khesra no. 2794 is concerned, he has got no objection since he is not claiming right, title or possession over the same. However, it is submitted by the learned counsel appearing for the respondent no. 6 that as far as other khesra no. i.e. 2805 (old number) is concerned, the respondent no. 6 is only concerned with 17 decimals of the same, inasmuch as the same corresponds to new plot no. 4668, new khata no. 1037, 17 decimals whereof, has been carved out from the old plot no. 2805 and the same has also been recorded in the revenue records by an order dated 05.09.2008 under the Bihar Tenancy Act. It is further submitted that the State of Bihar through its Circle Officer has preferred a Title Suit claiming possession of the land in question.

At this juncture, the learned counsel for the petitioner submits that the aforesaid suit is a meaningless suit and since there is no stay or injunction granted by the competent court, in the said case, mere filing of the suit cannot preclude the State Government authorities from removing the encroachment over the public land/ *rasta*.

This Court finds that the order dated 12.09.2001 passed by the Circle Officer, Basopatti, Madhubani cannot be said to be a final order under Section 6(1) of the Bihar Public



Land Encroachment Act, 1956. The respondent- State has failed to bring on record any final order passed under Section 6(1) of the Bihar Public Land Encroachment Act, 1956, as such this Court is of the opinion that the encroachment proceedings initiated by the Circle Officer, Basopatti, Madhubani in the year 2001 has not reached finality. It is equally pertinent to state that the order passed by the Sub-Divisional Public Grievance Redressal Officer, Subdivision Jainagar, Dist-Madhubani dated 28.06.2016 is beyond jurisdiction, inasmuch as under the Bihar Right to Public Grievance Redressal Act, 2015, the Public Grievance Redressal Officer has got no jurisdiction to adjudicate upon the issue of encroachment over the public land, inasmuch as the said power is vested with the learned Court of Circle Officer, concerned, under the Bihar Public Land Encroachment Act, 1956, hence the said order dated 28.06.2016 is illegal and has been passed beyond the scope of the Bihar Right to Public Grievance Redressal Act, 2015, thus is set aside. Consequently, the appellate order dated 16.09.2016 passed by the District Magistrate, Madhubani is bound to fall, hence is quashed.

Having regard to the facts and circumstances of the case, this Court deems it fit and appropriate to remand the



matter to the Circle Officer, Basopatti, Madhubani for passing a final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956, after hearing the affected parties herein as also after giving them opportunity of adducing evidence by filing appropriate document, which they may deem to be fit and proper. It is directed accordingly.

It is expected that the Circle Officer, Basopatti, Madhubani shall conclude the proceeding under the Bihar Public Land Encroachment Act, 1956, as aforesaid, and pass the final order within a period of three months from today.

The present writ petition stands disposed off with the aforesaid directions.

(Mohit Kumar Shah, J)

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