

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23210 of 2018

Ashok Paswan, Son of Mangal Paswan, Resident of Village-Mor (part in Mokamah), P.S. Mokamah, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Secretariate, Patna.
2. Collector of the District, Patna.
3. Deputy Collector, Land Reforms, Barh, Patna.
4. Block Development Officer, Mokamah, Patna.
5. Panchayat Secretary, Mor Panchayat, Mokamah, Patna.
6. Mukhiya, Mor Panchayat, Mokamah, Patna.
7. Circle Officer, Mokamah, Patna.

... .. Respondents

Appearance :

For the Petitioner : Mr.Ashok Kumar, Advocate.
For the Respondents : Mr.Md. Khurshid Alam, A.A.G., 12.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 03-01-2019 Heard learned counsel for the petitioner and learned
counsel for the respondents.

The following reliefs have been sought for by the
petitioner in the present writ application.

“1. To issuance of a writ, order or direction in the nature of Mandamus/Certiorari quashing three separate third show cause notices dated 15.11.2018/16.11.2018 bearing Gyapank No. 1475, issued by the respondent no. 7 Circle Officer, Mokamah in Encroachment Case No. 01 of 2016-17 (Annexure-5 series) by which the petitioner has been ordered to vacate the encroached land himself till 17.12.2018 failing which after 17.12.2018 the same will be vacated with the help of police and cost incurred in vacation will be charged from the petitioner.
(ii) Further be pleased to quash three



separate second show cause notices dated 20.10.2018/15.10.2018 issued by the respondent no. 7 in Encroachment Case No. 01 of 2016-17 (Annexure-4) whereby the respondent no. 7 asked the petitioner that why not action for encroachment of public land be taken against him and further directed to remove the encroachment himself and appear and submit his show cause on 29.10.2018 at 11 P.M.

(iii) In consequence be further pleased to quash three separate first show cause notices dated 28.09.2018 issued by the respondent no. 7 Circle Officer, Mokamah in Encroachment Case No. 01 of 2016-17 (Annexure-3 series) by which the respondent asked the petitioner that why not action for encroachment of public land be taken against him and further directed to remove the encroachment himself from 584.25 Sq. ft., 492 Sq. ft and 2259 sq. ft. land over which pucca constructed house, double storied pucca house and pucca asbestos Toilet are standing, situated at Mauza-Mor, P.S. Kokamah, District-Patna bearing Thana No.33, Plot No. 2790 and further directed to appear and file/plead his side.”

The petitioner was issued first show cause notices dated 28.09.2018 and second show cause notices dated 20.10.2018 by the Circle Officer, Mokamah under Section 3 of the Bihar Public Land Encroachment Act vide Annexures 3 series and 4 to the present writ application. The petitioner could not file reply to the show cause notices before the competent authority in compliance to Section 4 of the Act and without complying with Section 5 of the Act, again third and final



notices dated 15.11.2018 under Section 6 of the Act have been issued upon the petitioner by the Circle Officer, Mokamah vide Annexure-5 series to the present writ application. It is submitted by learned counsel for the petitioner that at the relevant time, the petitioner was not residing at the local area. Hence, he had no knowledge regarding the notices issued under Section 3 of the Act. When the petitioner received notices under Section 6 of the Act, he preferred the present writ application challenging the notices issued under Section 6 of the Act upon him vide Annexure-5 series to the present writ application which are not as per Form-II to the Act. It is further submitted on behalf of the petitioner that the petitioner will appear before the concerned officer in pursuance to Annexures-3 series and 4 to the present writ application within a period of thirty days from today and produce all the relevant documents in respect of his title and possession of the land in question.

Considering the submission made on behalf of the petitioner, notices dated 15.11.2018 issued under Section 6 of the Act (Annexure-5 series to the writ application) are set aside. The petitioner is directed to appear before the concerned officer within a period of thirty days from today in pursuance to the notices issued under Section 3 of the Act. The respondent no. 7,



the Circle Officer shall pass a final order under Section 6 of the Act complying with the provisions under Sections 4 and 5 of the Act, within a period of sixty days from the date of filing of such show cause on behalf of the petitioner.

With the aforesaid observations and directions, the present writ application stands disposed of.

(Sudhir Singh, J)

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