

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19597 of 2019

Chandrika Bhagat son of late Puran Bhagat, Resident of Village- Manjha Gosai, P.S.- Phulwariya, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Gopalganj.
2. The Sub-Divisional Officer, Hathua, Gopalganj.
3. The Circle Officer, Phulwariya, District- Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shyama Kant Singh

For the Respondent/s : Mr. Subash Chandra Yadav (GP-15)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 20-09-2019 The present writ petition has been filed to set aside the notice dated 30.08.2019 issued by the Circle Officer, Phulwariya, District-Gopalganj in connection with Encroachment Case No. 3 of 2017-18 on the ground that without seeking any show cause reply or seeking objection from the petitioner herein, the petitioner has been directly intimated to remove the encroachment in question.

The learned counsel for the petitioner further refers to an order dated 10.01.2018 passed in CWJC No. 299 of 2018, whereby and whereunder the Circle Officer, Phulwariya, was directed to examine the record and conduct spot verification and only thereafter, he had to come to a finding as to whether the public road/ land has been encroached upon or not and then he was required to initiate a proceeding with regard to the land in question and after giving due opportunity of hearing to the encroachers, he was required to pass final order within a period



of three months, thereafter. However, it is submitted that no opportunity of filing any objection has been granted to the petitioner herein, hence the notice dated 30.08.2019 is *de hors* the provisions of the Bihar Public Land Encroachment Act, 1956.

Having regard to the facts and circumstances of the case, the present writ petition stands disposed off with liberty to the petitioner to file objection before the Circle Officer, Phulwariya, District-Gopalganj within a period of four weeks from today, in connection with Encroachment Case No. 3 of 2017-18, whereupon the Circle Officer shall pass the final orders under Section 6(1) of the Bihar Public Land Encroachment Act, 1956, after considering the objection filed by the petitioner herein.

It is needless to state that in case no objection is filed within a period of four weeks from today, the Circle Officer, Phulwariya, District-Gopalganj shall be free to pass *ex parte* orders.

(Mohit Kumar Shah, J)

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