

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21826 of 2019

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Yugal Kishor Prasad S/o Late Ramkishun Ram R/o 34, Godawari Road, Near
Primary School, Chand Chaura, P.O. Chand Chaura, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gaya.
2. The District Magistrate, Gaya.
3. The Circle Officer, Nagar, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Nikhil Kumar Agrawal
	:	Aditi Hansaria
	:	Deepika Sharma
For the Respondent/s	:	Mr.Rishi Raj Sinha (Sc19)
	:	Mr. Akhilesh Kr. Sinha

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 07-11-2019

1. The present writ petition has been filed for quashing the notice dated 21.10.2019, purportedly issued under Section 6(2) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as “the Act, 1956”), whereby and whereunder the petitioner has been directed to remove the encroachment in question, without passing any final order under Section 6(1) of the Act, 1956.

2. The learned counsel for the petitioner has submitted that there is no whisper about passing of the final order under Section 6(1) of the Act, 1956, in the impugned notice dated 21.10.2019, issued in Encroachment case no. 19 of 2019-20. It is further submitted that the Circle Officer, Nagar, Gaya was precluded from passing any punitive orders under Section 6(2) of



the Act, 1956 without passing any final order under Section 6(1) of the Act, 1956.

3. This Court finds from the records of this case as also from the impugned notice dated 21.10.2019 that the Circle Officer, Nagar Gaya has proceeded to issue impugned notice dated 21.10.2019 under Section 6(2) of the Act, 1956 without passing any final order under Section 6(1) of the Act, 1956, hence the notice dated 21.10.2019 is illegal and *de hors* the provisions contained in the Act, 1956 and is accordingly, quashed, however with liberty to the Circle Officer, Nagar, Gaya to pass final orders under Section 6(1) of the Act, 1956 in connection with Encroachment case no. 19 of 2019-20, after considering the objection already filed by the petitioner herein as also after hearing the petitioner, for which this Court deems it fit and appropriate to fix the date and time of hearing as 20.11.2019 at 10.30 am.

4. It is needless to state that till the passing of the final orders under Section 6(1) of the Act, 1956, no coercive action shall be taken against the petitioner.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.11.2019
Transmission Date	NA

