

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4631 of 2019

In
Civil Writ Jurisdiction Case No.21724 of 2019

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Neeru Devi W/o Shri Laxmi Prasad R/o Mohalla- Narain Chuan, P.S.
Vishnupad Town, Distt. 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

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nikhil Kumar Agrawal
For the Opposite Party/s : Mr.Raj Kishore Roy(Gp 18)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 2 14-11-2019 The present modification petition has been filed for modifying the order dated 05.11.2019 passed in CWJC no. 21724 of 2019 on the ground that the said order has been passed on the basis of in-correct submission of the learned counsel appearing for the petitioner to the effect that the final order has been passed under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as “the Act, 1956”). However, subsequently, after disposal of the said writ petition, the learned counsel for the petitioner has discovered that infact no order under Section 6(1) of the Act, 1956 has been passed, hence appeal under Section 11 of the Act, 1956 would not be maintainable, thus realising the mistake, the



learned counsel for the petitioner has fairly filed the present modification petition for amending the order of this Court dated 05.11.2019.

I have heard the learned counsel for the parties and perused the materials on record and I find that the order dated 05.11.2019 is required to be modified, inasmuch as, admittedly no order under Section 6(1) of the Act, 1956 has been passed by the Circle Officer, Nagar, Gaya pertaining to Encroachment case no. 19 of 2019-20.

Having regard to the actual facts and circumstances of this case, I deem it fit and proper to recall the order dated 05.11.2019 and further grant liberty to the petitioner to approach the Circle Officer, Nagar, Gaya in connection with Encroachment case no. 19 of 2019-20 for the purposes of filing objections within a period of four weeks from today and in case, such an objection is filed, the same shall be considered by the said Circle Officer and final order under Section 6(1) of the Act, 1956 shall be passed thereafter. It is needless to state that in case, no objection is filed by the petitioner within a period of four weeks from today, the Circle Officer, Nagar, Gaya shall be free to pass *ex-parte* orders.

It is further directed that till the passing of the final



order under Section 6(1) of the Act, 1956, no coercive action shall be taken against the petitioner herein. Consequently, the notice dated 21.10.2019, issued by the Circle Officer, Nagar, Gaya, is declared to have been rendered redundant.

Accordingly, the order dated 05.11.2019 passed in CWJC no. 21724 of 2019 stands modified to the aforesaid extent.

The present modification petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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