

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23361 of 2019

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Digambar Yadav, s/o late Ram Sharan Yadav, resident of village Paliwar, PS Rajnagar presently residing at village chkdah, PS Rajnagar District Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Madhubani.
2. The Collector, Madhubani.
3. the Sub- divisional Officer, Sadar, Madhubani.
4. The Deputy Collector, Land Reforms, Madhubani.
5. The Circle Officer, Rajnagar.
6. The Headmaster, Chakdah Middle School, Chakdah Circle Rajnagar District Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanat Kumar Mishra
For the Respondent/s : Mr.Raj Kishore Roy (GP-18)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 26-11-2019 Learned counsel for the petitioner has submitted that as a consequence of a typographical error the word “not” has not been printed in the fourth line of paragraph 5 of the application between the words “has encroached”. I find justification in the submission made on behalf of the petitioner. The said line of paragraph-5 has been read accordingly, for the present order.

2. The petitioner has put to challenge a communication dated 11.11.2019 passed by the Circle Officer, Rajnagar, Madhubani, whereby he has been asked to remove



encroachment caused by way of construction of building over a public land. It has been mentioned in the said impugned letter that measurement of the land was done on 08.11.2019 in the presence of the Headmaster of the Government School, under the orders of the Sub-Divisional Officer, Sadar, Madhubani. It was reported on the basis of the said measurement by the Anchal Amin that the petitioner had encroached nearly 1 dhur 26 dhurki of the land belonging to the School.

3. Learned counsel appearing on behalf of the petitioner has submitted that before issuance of the said order dated 11.11.2019, no notice was given to the petitioner for removal of encroachment of the public land and no proceeding was ever initiated in consonance with the provisions under Section 3 of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act').

4. On perusal of the impugned communication, it is evident that it does not refer to any initiation of proceeding under the Act. It also does not refer to any notice having been issued to the petitioner as contemplated under Sub-section (1) of Section 3 of the Act.

5. In the facts and circumstances of the case, this application is disposed of with an observation that the said letter



dated 11.11.2019 shall be treated to be a show cause notice issued to the petitioner as contemplated under Sub-section (1) of Section 3 of the Act. Accordingly, the petitioner will be required to appear before the Circle Officer, with his defence under Section 4 of the Act. A Public Land Encroachment proceeding shall have to be initiated, accordingly. The Circle Officer will thereafter proceed to pass final order, in accordance with the provisions of Act, after giving the petitioner an opportunity of hearing.

6. Till final order is passed after giving the petitioner an opportunity of hearing in the aforesaid proceeding, no action should be taken to demolish the construction in question.

(Chakradhari Sharan Singh, J)

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