

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25597 of 2019

Rashida Khatoon, Wife of Late Shayid Shah Asif @ Syed Shah Ashique,
Resident of Dargah Shah Arzan, Darah Road, P.O.-Mahendru, P.S.-
Sultanganj, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Bihar, Patna.
2. The Principal Secretary, Department of Water Resource, Bihar, Patna
3. The District Magistrate-Cum-Collector, Patna.
4. The Commissioner, Patna Municipal Corporation, Maurya Lok Complex, Patna-800001.
5. The Sub-Divisional Officer, Patna Sadar, Patna.
6. The Superintendent of Police, Patna
7. The Circle Officer, Patna Sadar, Patna.
8. The S.H.O. Sultanganj Police Station, District-Patna.
9. Md. Sheru, Son of Late Abdul Hai, Resident of Mohalla-Dargah, Road, Police Station, Sultanganj, Patna-6.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Fakhruddin Ali Ahmad, Adv.
For P.M.C.	:	Mr. Prasoon Sinha, Adv.
For the Respondent/s	:	Mr. Md. Khurshid Alam (AAG-12)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and

HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

Date : 20-12-2019

Heard learned counsels for the petitioner, Patna
Municipal Corporation and learned AC to AAG-12 for the
respondent-State.

The present writ application, by way of Public
Interest Litigation, has been filed for a direction to the
respondent authorities for removal of the encroachment from the
public land, appertaining to Plot No. 491, Sheet No. 122, Ward



No. 15, measuring an area of about 41 decimals, situated at Mohalla Dargah Ghera, P.O.- Mahendru, P.S.-Sultanganj, District Patna.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the Municipal Survey Khatiyan of the year 1932-33 in the name of Patna City Municipality, but the same has been encroached upon by private respondent no.9. Earlier there was a pond on the land in question and the same was being used for public purposes particularly, for water harvesting. It is further submitted that for removal of the encroachment from the land in question, the petitioner submitted a representation before respondent no.4, the Commissioner, Patna Municipal Corporation on 01.03.2014, and before respondent no.3, the District Magistrate, Patna on 07.04.2014, as contained in Annexure-3 series, but the encroachment from the land in question has not been removed.

It is submitted by learned counsels for the Patna Municipal Corporation as well as by respondent-State that the last representation was submitted by the petitioner in the year 2014, but if a fresh representation is being submitted by the petitioner before respondent no.7, the Circle Officer, Patna Sadar for initiating a proceeding under the Bihar Public Land



Encroachment Act, 1956 (hereinafter referred to as 'the Act') then the Patna Municipal Corporation after giving opportunity to put its stand with regard to land in question after verifying the Revenue Records, will dispose of the representation in accordance with law.

Considering the rival submissions of the parties, in view of this Court, the Collector under the Act, i.e., the Circle Officer under Section 3 of the Act can initiate a proceeding for removal of the encroachment from the public land if it appears to him that the public land has been encroached upon.

In the circumstances, we give liberty to the petitioner to submit a fresh representation before respondent no.7, the Circle Officer, Patna Sadar within a period of three weeks from the date of receipt/production of a copy of this order, whereupon respondent no.7 will examine the Revenue Records and if need be, may visit the land in question and if it appears to him that the land in question is a public land then he will initiate a proceeding under Act, if the same has already not been initiated, and take such proceeding to its logical conclusion in accordance with law within a period of eight weeks from its initiation after giving due opportunity of hearing to all affected persons including respondent no.9.



Accordingly, with the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.12.2019
Transmission Date	

