

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8079 of 2020

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Pankaj Kumar (male), aged about 32 years, Son of Sri Kumar Satyendra Prasad Sinha, Present resident of Mauja- Noormohammadpur, Police Station- Parsa Bazar, District- Patna, Presently residing at K-99, P.C. Colony, Hanumannagar, P.S.- Patrakarnagar, Patna- 800020.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Department of Rural Development, Government of Bihar, Patna.
3. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
4. The Collector, Patna Collectorate, District- Patna.
5. The Circle Officer Phulwarisharif Circle, District- Patna.
6. The Senior Superintendent of Police Patna, District- Patna.
7. The Station House Officer/ In- Charge Police Station, District- Patna. (Parsa Bazar).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Prasad, Advocate
For the State	:	Mr. Vinay Kriti Singh, GA 2 with Mr. Vijay Verma, AC to GA 2 Mr. Akhileshwar Singh, AC to GA 2

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 25-09-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Ajay Prasad, learned counsel for the petitioner and Mr. Vinay Kirti Singh, learned GA 2 along with Mr.



Vijay Verma and Mr. Akhileshwar Singh, learned ACs to GA 2,
for the State.

3. The petitioner has moved the Court for the following
reliefs:

“ (i) For quashing of notice issued vide letter no. 25.07.2020 issued by the circle officer, Phulwarisharif in pursuance of Encroachment Case No. 27/1920 whereas the respondent no. 5, Circle Officer has issued a notice with a direction to the petitioner for removing the encroachment bearing Thana No. 77, Khata No. 100, Khesra No. 364 till 04.08.2020 otherwise the authority will remove the encroachment and realize the money as provided under Section 188 I.P.C., without notice to the petitioner and without given any opportunity of hearing to the petitioner.

(ii) For issuance of a direction to the respondent no. 5, the Circle Officer, Phulwarisharif to consider the objection petition filed by the petitioner on dated 22.02.2020 by hand and on 24.02.2020 by registered post to the respondent no. 5, the Circle Officer, Phulwarisharif.

(iii) For issuance of a direction to the respondent authority that till the disposal of the writ application as well as objection petition filed by the petitioner status quo should be maintained.

(iv) For any other relief/reliefs as your Lordships may deem fit and proper in the interest of justice.”

4. At the outset, learned State counsel submitted that the petitioner is not the person to whom the authorities have issued notice for removal of encroachment and, thus, the petition itself might not be maintainable as he has no cause of action.



5. On this, learned counsel for the petitioner submitted that this is exactly his grievance, that though his land is not being sought to be removed showing it as an encroachment in the notice issued, but on the ground, actually the authorities are trying to interfere in his land, despite it having a different *Khata* number.

6. At this juncture, when the Court called upon learned counsel indicating that the writ petition be disposed off with a direction that there be a joint spot verification of the lands of the petitioner in the presence of all the parties concerned and if any encroachment is found, the petitioner would himself get the same removed, as has been submitted by learned counsel for the petitioner, they agreed to the same.

7. In view thereof, the writ petition stands disposed off with a direction to the petitioner to appear before the Circle Officer, Phulwarisharif (respondent no. 5) on 7th October, 2020 at 11.30 AM in his official chamber and the respondent no. 5 shall fix a mutually convenient date and time for spot inspection. On the day fixed, the respondent no. 5 with his team and the petitioner along with his *Amin* shall be present at the spot and actual measurement/demarcation shall be carried out, as also verification with regard to the ownership of the petitioner of the land/building in terms of the official revenue records. The report of the same



shall be jointly signed by both the parties. Such report shall be finalized within one week of the spot inspection being made. If, as per the report, the petitioner is found to have encroached on any Government land, he shall himself get the same removed, within one month from the copy of the report being handed over to him by the authorities, failing which the authorities shall be at liberty to get the encroachment removed and recover the cost from the petitioner.

8. For the ends of justice, till the time the aforesaid exercise is not complete, *status quo* shall be maintained with regard to the land/building occupied by the petitioner and no coercive steps shall be taken by the authorities against him.

9. The Court would also indicate that it has not gone into the merits of the matter.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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