

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6950 of 2014

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Ashok Kumar, Son of Late Indradeo Singh, Resident of Village+Post Ikill,
P.S. Makhdumpur, District Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar.
2. The Collector, Jehanabad.
3. The Sub Divisional Officer, Jehanabad, District- Jehanabad.
4. The Land Reforms Deputy Collector, Jehanabad, District- Jehanabad.
5. Sri Sridhar Pandey, Son of not known to the petitioner, the Circle Officer Ratni Faridpur Block, Jehanabad, District- Jehanabad.
6. The Superintendent of Police, Jehanabad.
7. The Station House Officer, Sakurabad, District- Jehanabad.
8. Ram Kewal Rout, Son of not known to the Petitioner, Resident of Village+ Post- Sikandarpur, P.S.- Sikandarpur, District- Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Dinu Kumar, Advocate
For the State	:	Mrs. Binita Singh, S.C.28
		Mr. Vivek Anand Amritesh, A.C. to S.C.28

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

13 03-02-2020 Heard Mr. Dinu Kumar, the learned counsel for the

petitioner and Mrs. Binita Singh, the learned S.C. 28, appearing on

behalf of the State.

The Circle Officer, Ratni Faridpur, Jehanabad is present

in Court.

The petitioner has confined his prayer only to

Annexure-4 and Annexure-11. By annexure-4, the Circle Officer,

on the basis of some complaint, directed the petitioner not to make

any construction over Plot No.3438 of Khata No.1575 and Plot



No.3449 of Khata No.1576, area 38 decimals and 33 decimals respectively but without initiating any proceeding under the Public Land Encroachment Act.

Learned counsel for the petitioner submits that at the same time, the Circle Officer directed the Anchal Amin to get the land measured. Anchal Amin measured the land and submitted report but the Circle Officer did not pass any order. Thereafter the petitioner moved this Court in CWJC No.9751 of 2013. This Court by order dated 16.05.2013, directed the Circle Officer to dispose of the petition and pass final order within two months. It is further submitted that the Circle Officer while hearing the objection of the petitioner in Measurement Case No.13 of 2012-13, doubted the genuineness of the settlement made in favour of the grandfather of the petitioner in the year 1948. The Circle Officer is not at all vested with the power in a measurement case to doubt the genuineness of the settlement made by the ex-landlord. It is further submitted that if the Circle Officer at all finds that any construction is made by any party on a public land, the Circle Officer is vested with the power under the Public Land Encroachment Act to initiate a proceeding and pass order in accordance with law but no proceeding under Public Land Encroachment Act was ever initiated.

Mrs. Binita Singh, the learned S.C.28, submits that the



Circle Officer passed order in measurement case in view of the order passed by this Court on 16.05.2013, passed in CWJC No.9751 of 2013. It is further submitted that Anchal Amin measured another land and not measured the land in question and submitted report but it appears that thereafter the Circle Officer did not pass any order after perusal of the report of the Amin to get the actual disputed plot measured and submit report rather the Circle Officer passed the order on the basis of the report of the Amin and doubted the genuineness of the settlement made in favour of the grandfather of the petitioner on the basis of which the name of the petitioner was mutated in the records of right. By order dated 11.09.2014, this Court directed the Circle Officer to produce Register II but it is submitted that Register II is misplaced and FIR is lodged against the Revenue Clerk who is responsible for misplacing of Register II. It appears from the facts and perusal of Annexure-4 as well as Annexure-11 that the Circle Officer without initiating a proceeding under the Public Land Encroachment Act after having received complaint from different persons directed the petitioner not to make construction over the lands. The Circle Officer is not at all vested with the power to pass order restraining any person from making any construction over the land without initiating a proceeding under the Public Land Encroachment Act. Even in a measurement case, the Circle Officer has travelled



beyond his jurisdiction and recorded the finding doubting the genuineness of the settlement made in favour of the grandfather of the petitioner. In the measurement case, the Circle Officer is only to get the disputed land in question measured and to submit report. If the Circle Officer finds that the public land has been settled in favour of any person, the Circle Officer being the custodian of the government land may file petition before the Additional Collector for cancellation of such Jamabandi opened in the name of a person in contravention of any law and circular.

Having considered the facts aforesaid, I find that notice issued by the Circle Officer, Ratni, Faridpur, Jehanabad (Annexure-4) and the order dated 17.12.2013 (Annexure-11) are not sustainable and are set aside.

The writ petition is accordingly allowed.

Personal appearance of the Circle Officer, Ratni Faridpur, Jehanabad is dispensed with.

(Prabhat Kumar Jha, J)

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