

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21775 of 2019

Shankar Sah Son of Late Gena Sah Resident of Village- Bhabrua, Police Station- Madhuban, District- East Champaran, Motihari.

... .. Petitioner

Versus

1. The State of Bihar through District Magistrate, East Champaran, Motihari.
2. The District Magistrate, East Champaran, Motihari.
3. The Sub Divisional Officer, East Champaran, Motihari.
4. The Deputy Collector Land Reform, Pakridayal, East Champaran, Motihari.
5. The Circle Officer, Madhuban District- East Champaran, Motihari.
6. Chhathu Bhagat Son of Late Abhilekh Bhagat Resident of Village- Bhabrua, Police Station- Madhuban, District- East Champaran, Motihari.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Sudish Kumar
For the Respondent/s : Mr. Asif Kalim, AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 06-01-2020 The petitioner has put to challenge an order dated 02.07.2019 passed in Misc. Case No. 41 of 2012, whereby the District Magistrate, East Champaran, has affirmed an order of the Circle Officer dated 09.04.2012 passed in Encroachment Case No. 1/2011-12 under Bihar Public Land Encroachment Act, 1956. The said order dated 09.04.2012 passed by the Circle Officer is also being assailed in the present writ application.

The land in question appertains to Khesra No. 919, admeasuring three dhurs (58 Kari x 13 Kari). It appears that on the basis of report of Anchal Amin in respect of the said Khesra, on 21.02.2012 a proceeding was initiated for removal of



encroachment after having noticed that the land in question was a public land, in accordance with the provisions under Bihar Public Land Encroachment Act. It is the petitioner's case that he and his ancestors have been in possession over the land in question since 1970-71 and they have constructed a hut over the said plot. It has further been stated in the writ petition that the land was settled in favour of the petitioner's ancestors in 1970-71. In support of such contention, Annexure-2 has been brought on record. It has further been stated in the writ application that even if the encroachment is accepted as per the report of the Amin, such encroachment being insignificant in terms of area, it should be exempted from removal of encroachment.

This is an admitted fact that the document, on which the petitioner is placing reliance in the present writ application in support of his plea that the land in question was settled in his favour, was not relied upon by him in the proceedings under the Act. The petitioner's plea that the encroachment being insignificant in terms of area should be exempted, in Court's opinion, cannot be accepted for the purpose of interfering with statutory orders passed under the Act. This is not the plea on behalf of the petitioner that any provision under the Act has been violated while passing the impugned orders. The petitioner



was given notice and adequate opportunity of hearing before passing of the order by the Circle Officer. The Collector, East Champaran, has passed a speaking order and has discussed the grounds taken on behalf of the petitioner to resist removal of encroachment.

I am not inclined to interfere with the impugned orders, which do not suffer from any legal infirmity requiring this Court's interference. This application is accordingly dismissed.

It goes without saying that the petitioner shall have liberty to file suit if according to him he has title over the land in question.

(Chakradhari Sharan Singh, J)

Pawan/-

U			
---	--	--	--

