

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22663 of 2019

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1. Chhathu Baitha @ Chhathu Rajak, Son of Late Nathun Baitha, resident of Village- Sikaria, P.O. Bhewar, P.S. Jehanabad, District- Jehanabad, Bihar- 804454.
 2. Ajay Kumar, Son of Sri Chhathu Rajak, resident of Village- Sikaria, P.O. Bhewar, P.S. Jehanabad, District- Jehanabad, Bihar- 804454.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Jehanabad.
3. The Deputy Collector(Establishment), Jehanabad.
4. The Sub-Divisional Officer, District- Jehanabad.
5. The Circle Officer, Jehanabad, District- Jehanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rohit Mishra
For the Respondent/s	:	Mr.Sajid Salim Khan (SC-25)
For Intervenor	:	Mr. Pramod Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 03-02-2020 Heard learned counsel for the parties.

2. The petitioner seeks quashing of a notice issued by the Circle Officer, Jehanabad under Section 6(2) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as ‘the Act’). It transpires that the proceeding was initiated in the light of certain order passed by this Court in a public interest litigation filed by one Hanslal Singh (CWJC No. 2291 of 2019). The petitioner of the said public interest litigation has filed I.A. No. 1 of 2020 for his impleadment as party respondent



to resist the prayer made in the writ application.

3. Learned counsel appearing on behalf of the petitioner, assailing the impugned notice under Section 6(2) of the Act, has submitted that before issuance of the said notice, it was incumbent upon the Circle Officer to have passed an order as contemplated under Section 6(1) of the Act. He has submitted that no copy of any order passed under Section 6(1) of the Act has been supplied to him because of which he has not been able to avail statutory remedy of appeal under Section 11 of the Act.

4. A counter affidavit has been filed on behalf of the State respondents stating therein that prior to issuance of the said notice under Section 6(2) of the Act, notice under Section 3(2) of the Act was issued and thereafter the Circle Officer has passed the order on the basis of the materials available before him. The counter affidavit, however, does not refer to any order passed by the Circle Officer as contemplated under Section 6(1) of the Act.

5. Considering the facts and circumstances of the case, this application is disposed of with a direction to the Circle Officer to ensure that the order which he had passed under Section 6(1) of the Act before issuance of the notice under



Section 6(2) of the Act is made available to the petitioner, if the petitioner approaches the Circle Officer, within one week from today. The petitioner shall thereafter be at liberty to prefer appeal against the impugned order/notice before the appellate authority under Section 11 of the Act.

6. Till the said copy of the order is made available to the petitioner, the impugned notice under Section 6(2) of the Act shall not be given effect to.

7. The petitioner shall be at liberty to seek interim relief before the appellate authority by making appropriate application, if situation so warrants.

8. It goes without saying that the petitioner may apply for condonation of delay by making application before the Collector, in case there is delay in filing of the appeal.

9. I.A. No. 01 of 2020 stands disposed of.

(Chakradhari Sharan Singh, J)

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