

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1702 of 2020

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Priyatam Kumar Son of Anil Chourasia @ Anik Chourasia @ Aniklal Mandal, Resident of Village- Mahesh Khunt (Puwari tola) Police Station- Mahesh Khunt, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, department of revenue and land reforms Government of Bihar, Patna.
2. The District Magistrate cum Collector, Khaaria.
3. The deputy Collector, land reforms, Khagaria.
4. The Sub Divisional Official, Gogri, Khagaria.
5. The Circle Officer, Gogri, Khagaria.
6. The Block Development Officer, Gogri, Khagaria.
7. The Managing Director, Deshratna Dr. Rajendra Prasad Dugdh Utpadak Sahyog Samiti, Ltd., Barauni Dairy, Barauni, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Singh, Advocate
		Mr. Sunil Kumar, Advocate
For the Respondent/s	:	Mr. Dhurjati Kumar, GP-14
For the Respondent No.7:		Mr. Nikesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 21-12-2021 Heard Mr. Manoj Kumar Singh, learned counsel for the petitioner, Mr. Dhurjti Kumar, learned GP-14 for the State and Mr. Nikesh Kumar, learned counsel appearing for the Respondent No. 7.

2. The petitioner has filed the present writ application challenging the notice issued by the Circle Officer, Gogri, dated 2.2.2019 in Encroachment Case No. 03/2018-19 for removal of encroachment from a piece of land encroached by the petitioner and others, pertaining to Mauza Maheshkhunt,



Thana No. 297, Tauzi No. 525, Khata No. 309, Khesra No. 621/6 having an area of 0.33 acres.

3. Learned counsel for the petitioner submits that in the year 1954 Thethar Mandal had purchased 12 Katthas 52 ½ decimal of land under Khesra No. 621/6, Tauzi No. 525, Khata No. 309, Thana No.297, in the name of his three sons namely, Mahadeo Mandal, Sukhdeo Mandal and Gunji Lal Mandal through a sale deed dated 26.5.1954 executed by the original landlord Mritunjay Singh. Learned counsel further submits that after purchase of the said land, Jamabandi No. 920 was created in favour of Gunji Lal Mandal, Sukhdeo Mandal and Mahadeo Mandal and they had been paying rent to the Government and were in peaceful possession over the said land. The petitioner claims to be the grand son of Mahadeo Mandal. A pucca house has been constructed upon the subject land having an area of 7 decimal of land in Khesra No. 621/6. He further submits that in 1972, the Respondent No. 7 decided to establish a Milk Cooling Plant at Mahenshkhunt, for which, acquisition proceeding was initiated by which 45 decimal of the land of the petitioner's ancestor has been acquired, upon which, the petitioner has got no claim. However, the petitioner is concerned with 7 decimal of land and the house constructed upon it.



4. On the other hand, Mr. Nikesh Kumar, learned counsel appearing for the Respondent No. 7 submits that 3.84 acres of land was acquired for the purpose of Respondent No. 7 under the Land Acquisition Proceeding bearing No. 75/72-73 having various Plot Numbers, details of which, are mentioned in Annexure-A to the counter affidavit filed by the Respondent No. 7. The petitioner has encroached upon the land acquired by the Respondent No. 7 bearing Khata No. 621, for which, a Proceeding under Section 133 Cr. P.C. was initiated by the Managing Director, Barauni Dairy, against 17 persons and a final order was passed by the Sub Divisional Officer, Gogri, on 2.2.2016, by which the Circle Officer, Gogri, has been directed to identify the disputed land and remove the encroachment from the same.

5. Mr. Dhurjati Kumar, learned GP-14 appearing for the State submits that the Circle Officer, Gogri, on the basis of the direction given by the learned Sub Divisional Officer under Section 133 Cr. P.C., initiated the Encroachment Case No. 3 of 2018-19 against the petitioner and others for identification of the disputed land and removal of the encroachment from the same. Learned counsel further submits that the present writ application filed by the petitioner is premature inasmuch as no



final order for removal of encroachment has been passed by the *Anchal Adhikari*, Gogri, pursuant to the impugned notice. In reply, learned counsel for the petitioner submits that the petitioner is being threatened by the Respondent authorities that his house constructed over the land in question would be demolished forcibly, due to which, he has filed the present writ application before this Court.

6. I have heard learned counsel for the parties and have gone through the materials available on record. From perusal of the record, it appears that an Encroachment Case No. 03/2018-19 has been initiated against the petitioner and others for removal of encroachment from the land, details of which is mentioned in the impugned notice dated 2.2.2019 and no final order under Section 6(i) appears to have been passed by the Circle Officer, in the said Encroachment Case.

7. Accordingly, the Circle Officer, Gogri, is directed to proceed in accordance with law and decide the Encroachment Case No. 03/2018-19 within a maximum period of two months after giving an opportunity to the petitioner to submit his objection and personal hearing.

8. With aforesaid observation and direction, this writ application stands disposed of.



9. It is made clear that till the final order is passed by the Circle Officer, Gogri, in Encroachment Case No. 03/2018-19, there shall be no demolition of the house of the petitioner situated on Plot No. 621/6 having an area of 7 decimal.

(Anil Kumar Sinha, J)

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