

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13457 of 2021

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Upendra Mandal @ Upendra Narayan Prasad Singh, Son of Late Saryug Mandal @ Late Saryug Prasad Singh, Resident of Village - Bherha, P.S. - Mednichowki, District - Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reforms Dept. Bihar, Patna.
2. The District Magistrate, Lakhisarai.
3. The D.C.L.R., Lakhisarai.
4. The Circle Officer, Surajgarha, District - Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jai Prakash Singh, Advocate
For the Respondent/s : Mr.Sajid Salim Khan, SC-25

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 17-09-2021 This matter has been taken up for hearing online because of COVID-19 pandemic restrictions.

2. A proceeding was initiated against the petitioner under the provisions of Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') for removal of encroachment caused by him over a public land. Admittedly a notice was issued to the petitioner on 18.06.2021 by the Collector under the Act-cum-Circle Officer, Surajgarha asking him to appear before him on 05.07.2021 and to show cause as to why the encroachment should not be removed. The petitioner has brought on record his reply dated 05.07.2021, in response to



the said show cause notice dated 18.06.2021, by way of Annexure-6 to the writ application, wherein he has admitted that the land in question is a public land. He took a plea in his reply that the land was being used by him for several years and if he was removed from the said land, he would become homeless.

3. After considering the show cause reply, the Collector under the Act-cum-Circle Officer, Surajgarha passed an order dated 10.07.2021 asking the petitioner to remove the encroachment caused by him. The said order dated 10.07.2021 is being assailed in the present writ application.

4. Learned counsel appearing on behalf of the petitioner has submitted that the petitioner has filed an appeal against the impugned order before the Collector of the district. He has relied on orders of this Court dated 13.04.2018, passed in CWJC No. 7007 of 2018 and 16.07.2019, passed in CWJC No. 13908 of 2019 to contend that during pendency of the appeal the respondents may be restrained from giving effect to the order for removal of encroachment.

5. Evidently, the impugned order was passed by the Circle Officer on 10.07.2021. The petitioner filed this writ application on 23.07.2021, which came to be registered on 29.07.2021. There is no assertion that the Appellate Authority is



not entertaining the petitioner's prayer, if any, for interim order in the appeal, which is said to be pending before him.

6. Be that as it may, it is the petitioner's own case that the land in question is a public land which he has encroached upon. The orders of this Court dated 13.04.2018, passed in CWJC No. 7007 of 2018 and 16.07.2019, passed in CWJC No. 13908 of 2019 have no application in the facts and circumstances of the present case. In my view, this application is frivolous. The impugned order, in my opinion, does not suffer from any illegality in view of the petitioner's own admission that the land in question is a public land.

7. This writ application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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