

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8879 of 2020

=====

Vijay Shankar Prasad @ Vijay Shankar Chandravanshi S/o Late Ram Dayal Prasad, Resident of Village - Bhatari, P.S. Dariyon, District - Rohtas, Presently Resident of Takyanala, Takya, P.S. Sahsaram Town, District - Rohtas.

... .. Petitioner

Versus

1. The State of Bihar through its Chief Secretary, Govt. of Bihar, Patna.
2. The Principle Secretary, Land Reforms and Revenue Govt. of Bihar, Patna.
3. The Collector, Rohtas at Sahsaram.
4. The D.C.L.R, Sahsaram, Rohtas,
5. The Circle Officer, Sahsaram, Rohtas.

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr.Md. Ataul Haque, Advocate
For the Respondent/s : Mr.Lalit Kishore (Ag)

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 08-04-2021 This matter is taken up for consideration through

Video Conferencing.

Heard learned counsel for the petitioner and the State.

Writ petition has been filed for quashing notice dated
30.9.2020, issued by the Circle Officer, Sasaram, Rohtas in
Encroachment Case No. 04/19-20, whereby petitioner was
directed to remove the encroachment by 6.10.2020, failing
which the same shall be demolished by the authority on
7.10.2020 and the cost of the same will be realized by the
petitioner. It is further submitted that vide Memo no. 1217 dated
27.7.2019 Circle Ameen informed the Circle Officer, Sasaram



that the petitioner has encroached upon the land of the State Government and forwarded the measurement of the land in question (Annexure 3). In compliance of the notice issued by the Circle Officer, Sasaram on 22.2.2020, the petitioner appeared on 6.3.2020 and filed his show cause on 12.3.2020. It is further contended that without taking into consideration the show cause and hearing the petitioner final order was passed under section 6 of the Bihar Public Land Encroachment Act, 1956. During pendency of the writ petition, supplementary affidavit has been filed by the petitioner. He has submitted that on 19.12.2020 the structure in question was demolished by the respondents. As such, he has made prayer that the respondents may be directed to compensate the petitioner.

Considering the facts of the case, it appears that the *bona fide* dispute of right, title and possession is involved in the matter over the land in question which requires detailed examination of evidence and same could be decided in the civil suit and not before this Court in writ petition filed under Article 226 of the Constitution of India. Moreover, in absence of materials in support of allegation of *mala fide* against the respondents, this Court is not in a position to pass any order of compensation.



In the facts and circumstances of the case, writ petition is disposed of with a liberty to the petitioner to move before the civil court for proper relief.

(Prabhat Kumar Singh, J)

Shashi

U			
---	--	--	--

