

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13749 of 2022

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Vinay Kumar @ Vijay Kumar Son of Late Shiv Sharan Singh Resident of
Uttari Koeri Tola, P.S. Hilsa, District Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Collector, Nalanda.
4. The Circle Officer, Hilsa, District Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Lovekush Kumar,Advocate
For the Respondent/s : Mr.Sajid Salim Khan,SC-25

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 02-11-2022 The present writ petition has been filed for quashing the order dated 24.08.2022 passed by the Circle Officer, Hilsa i.e. the respondent no. 4, whereby and whereunder the encroachers, including the petitioner, have been directed to remove the encroachment in question voluntarily.

It is submitted by the learned counsel for the petitioner that though notice was issued under Section 3 of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the “Act, 1956”), in connection with Encroachment Case No. 6 of 2022-23, however without granting any adequate opportunity to the petitioner to submit his defence, the respondent no. 4 has unilaterally held the petitioner to be an



encroacher over the Government land in question.

The learned counsel appearing for the respondent-State has submitted that a notice under Section 3 of the Act, 1956 was issued to the petitioner on 05.06.2022 granting him opportunity to file his reply/ documents on or before 24.06.2022, failing which it would be deemed that the petitioner has got nothing to say and an ex-parte order shall be passed, however, there was no response from the side of the petitioner.

I have heard the Ld. counsel for the parties and perused the materials on record as also gone through the counter affidavit filed on behalf of the respondent-State, from which it is apparent that though the petitioner was granted time upto 24.06.2022 to file his objection/reply/documents in his favour, nonetheless, the Circle Officer, Hilsa, much prior to the said date i.e. 24.06.2022, passed an ex-parte order dated 08.06.2022 holding the petitioner and others to be encroachers over the Government land, whereafter the impugned notice dated 24.08.2022 was issued to the petitioner herein.

Having regard to the facts and circumstances of the case as also considering the aforesaid aspect of the matter, this Court finds that the respondent no. 4 has acted illegally and in haste by not waiting for expiry of the time period, granted to the



petitioner to file his reply/objection/documents, in pursuance to the notice dated 05.06.2022, issued by him whereby, the petitioner was granted time upto 24.06.2022 to file his reply/objection/documents in his favour and instead, much prior to expiry of the said time period, he has passed an order dated 08.06.2022, in connection with Encroachment Case No. 06 of 2022-23, holding the petitioner and others to be encroachers, an act which is not only in contravention of the principles of natural justice but also smacks of unreasonableness and arbitrariness.

For the reasons mentioned herein above, this Court is left with no option but to quash the encroachment proceedings, initiated vide Encroachment Case No. 06 of 2022-23, as also the notice dated 24.08.2022, issued by the respondent no. 4, qua the petitioner herein. It is ordered accordingly.

It is needless to state that the respondents shall be at liberty to initiate fresh encroachment proceedings, if so warranted, in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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