

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20249 of 2021

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Shi Naresh Upadhyay Son of Late Sitaram Upadhyay, Resident of Village-
Babhangawan, Post Gundi, P.S.-Krishnagarh, District-Bhojpur (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Revenue and Land Reforms, Department, Govt. of Bihar, Patna.
2. The Divisional Commissioner Division, Patna, District-Patna.
3. The Sub-Divisional Officer, Buxar, District Buxar.
4. The Circle Officer Barhara, Bhojpur, District-Bhojpur.
5. Pramod Kumar Upadhyay Son of Late Shambhu Nath Upadhyay, Resident of Village-Babhangawan, Pot-Gundi, P.S.-Krishnagar, District-Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Digvijay Kumar Ojha
For the Respondent/s : Mr.Raj Kishore Roy (Gp18)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL JUDGMENT

Date : 24-03-2022

Learned Counsel for the petitioner is permitted to implead the District Magistrate, Bhojpur, Ara, as party respondent in course of the day.

2. Heard learned Counsel for the parties concerned.

3. The petitioner claims to be the owner of a piece of land, situated at Mouza Gundi, bearing Khata No. 1380, Khesra No. 3744/7557, and is aggrieved by the order, dated 05.10.2021, passed by the Circle Officer, Barhara, in Encroachment Case No. 02 of 2020-21, by which the Circle Officer has directed the petitioner to remove the encroachment from the land in question



under the Bihar Public Land Encroachment Act (in short, 'the Act').

4. Learned Counsel for the petitioner submits that the petitioner and his predessor-in-interest is the khatiyani owner of the land in question and in the cadestral survey, the name of the ancestor of the petitioner has been recorded, however, in the revisional survey, the land in question has been shown as 'Bihar Sarkar Anabad', which has been corrected in the consolidation proceeding initiated in the said mouza, bearing Case No. 60 of 1986-87. He further submits that the petitioner is in long and continuous possession over the land in question and has been paying rent, but the Circle Officer, in a summary proceeding and without giving any opportunity of hearing to the petitioner, has passed the impugned order for removal of encroachment. He further submits that the certified copy of the impugned order has not been provided to the petitioner, however, the petitioner, by way of precaution, has filed an appeal before the Collector, Bhojpur, bearing Appeal No. 18 of 2021, challenging the order of the Circle Officer, which is still pending and on each and every date, the respondent authorities are threatening the petitioner for demolition of the house, which is standing over the land in question.



5. In view of the fact that the petitioner has already preferred appeal before the appellate authority, i.e. the District Magistrate, Bhojpur, I am not inclined to entertain this writ application on its merit.

6. However, the District Magistrate, Bhojpur, is directed to consider and dispose the appeal preferred by the petitioner against the impugned order within a period of four months from the date of receipt/production of a copy of this order.

7. It is made clear that till disposal of appeal filed by the petitioner, no coercive action shall be taken against the petitioner for demolishing the residential house of the petitioner situated over the land in question.

8. This writ application is disposed of with the aforesaid observation and direction.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29-03-2022
Transmission Date	N/A

