

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.975 of 2023

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Baban Singh Son of Late Lal Dhari Singh Resident of Village- Fuladi, Post
Office- Fuladi, Police Station- Sandesh, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Rural Development Department, Govt. of Bihar
3. The District Magistrate, Bhojpur
4. The Additional Collector, Bhojpur
5. The Deputy Collector of Land Reforms, Bhojpur
6. The Anchala Adhikari, Block - Sandesh, District- Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Anil Kumar, Advocate
For the State	:	Mr.Vinay Kirti Singh (Ga2)
		Mr. Akhileshar Singh, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 04-07-2023

1. The present writ petition has been filed seeking the
following relief:-

“1) For issuance of an appropriate writ commanding in the nature of certiorari for quashing the notice dated 14/12/2022 issued by the respondent number 6 i.e. Anchala Adhikari, Sandesh, Bhojpur under section 6 (2) of the Bihar Land Encroachment Act, 1956 whereby and whereunder respondent number 6 has been



pleased to direct the petitioner/brother of the petitioner to remove the encroachment over the land situated in village - Fuladi,, Police Station - Sandesh, District - Bhojpur, Thana number 424, plot number 3439, 3189, area 1.25 decimals, 1.044 decimals respectively till 29/12/2022 for which an order has already been passed under section 5(2) of the Bihar land encroachment Act, failing which suitable action should be taken against you under section 188 of the IPC. The above noted notice dated 14/12/2022 has been received by the petitioner on 22/12/2022 as contained in annexure -7 to this writ petition

(ii) For issuance of an appropriate writ commanding the respondents to not take any coercive action against the petitioner /brother of the petitioner as per notice dated 14/12/2022 issued by the respondent number 6 under section 6 (2) of the Bihar land encroachment Act during pendency of this writ petition.”

2. The learned counsel for the respondents has referred to the order-sheets/proceedings of Encroachment Case No.3 of 2016, initiated by the Circle Officer, Sandesh, District-Bhojpur, more particularly, the order dated 01.07.2016, to submit that the final order under Section 6(1) of the Bihar



Public Land Encroachment Act, 1956 (for short 'the Act, 1956'), has already been passed and the petitioner and others have been declared to be encroachers. It is also submitted that thereafter, notices were issued to the petitioner and other encroachers under Section 6(2) of the Act, 1956 on 06.12.2022, in connection with Encroachment Case No.3 of 2016, however, encroachment in question could not be removed till date, on account of pendency of the present writ petition.

3. At this juncture, the learned counsel for the petitioner submits that the petitioner be granted liberty to assail the aforesaid order dated 01.07.2016, by filing appropriate appeal under Section 11 of the Act, 1956 and the appellate authority be directed to consider the appeal of the petitioner on merits, as also the petitioner be protected during the interregnum period.

4. Having regard to the facts and circumstances of the case, I deem it fit and proper to grant liberty to the petitioner to file appropriate appeal, challenging the aforesaid order dated 01.07.2016 and in case such an appeal is filed, within a period of four weeks from today, the appellate authority shall consider the same on merits and pass a reasoned and a speaking order, in accordance with law, without being impeded by the issue of



limitation, and till then status quo, existing as on today qua the land/house of the petitioner in question, shall be maintained.

5. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.07.2023
Transmission Date	NA

