

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5092 of 2017

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Domi Mistri Son of late Deo Mistri Resident of Village- Baluaha Khirho, P.S.
Mahishi, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Revenue and Land Reforms,
Government of Bihar, Patna.
3. The Divisional Commissioner, Koshi Division, Saharsa.
4. The District Magistrate-Cum-Collector, Saharsa.
5. The Sub -Divisional Officer, Saharsa Sadar, District Saharsa-Cum-Sub-
Divisional Public Grievance Redressal Officer, Saharsa.
6. The Circle Officer, Mahishi, District- Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pramod Mishra, Advocate
		Mr.Suraj Kumar, Advocate
For the Respondent/s	:	Mr.Raj Kishore Roy-Gp18

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 13-04-2023 The present writ petition has been filed seeking the
following reliefs:-

"(i) A certiorari setting aside the notice/order contained in Memo No.1132-2 dated 20.12.2016 issued from the level of Respondent Circle Officer, Mahishi whereby and where-under the Respondent concerned has in a very illegal and unilateral manner directed the petitioner to remove his possession and vacate the land of given description within 6 days, whereas the land in question is the ancestral khatiyani land of petitioner, who has got even the rent receipt till 2015-16, but in a very conspiratory manner under a conspiracy of some vested interest the land has illegally been hold as



'Anabad Bihar Sarkar' at the back of this innocent and illiterate petitioner.

(ii) A Mandamus commanding and directing the Respondents concerned not to forcibly remove this poor landless petitioner from his rightful homestead land under some illegal and without jurisdiction order passed by the Sub- Divisional Public Grievance Redressal Officer, Saharsa who has got no jurisdiction to decide the matter of right, title and public land encroachment."

Though the respondents have filed a counter affidavit, however, there is no whisper about initiation of any encroachment proceeding as per the provisions contained in the Bihar Public Land Encroachment Act, 1956, hence, this Court deems it fit and proper to quash the notice dated 20.12.2016, issued by the Circle Officer, Mahishi (Saharsa), directing the petitioner to remove the encroachment in question and vacate the land, however, grants liberty to the respondents to take recourse to the due process of law, in case they are sanguine that the land in question is a public land.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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