

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.4980 of 2018**

**In**  
**Civil Writ Jurisdiction Case No.14480 of 2018**

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Sudarshan Jha Son of Krishna Bhawan JHa, Resident of Village- Pauram,  
P.S.-Hayaghat, District-Darbhangha

... .. Petitioner/s

Versus

1. The State Of Bihar Through, Sri Brajesh Malhotra, The Principal Secretary,  
Land Reform Department, Governmet of Bihar, Patna
2. Dr. Chandrashekhar Singh Son of name not Known, the District Magistrate-  
Cum-Collector, Darbhanga
3. Sri Vimal Kumar Karn Son of name not Known, the Circle Officer,  
Hayaghat, Darbhanga
4. Smt. Garima Mallik Wife of name not Known, the Senior Superintendant of  
Police, Darbhanga
5. Sri Rakesh Kumar Gupta Son of name not Known the Sub-Divisional  
Officer, Sadar, Darbhanga

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Shambhu Nath Jha  
For the Opposite Party/s : Md. Khurshid Alam

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**

**and**

**HONOURABLE MR. JUSTICE JITENDRA KUMAR**

**ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

8      24-06-2023                      Heard learned counsels for the respective parties.

2. The present MJC is filed for non-compliance of the  
order dated 29.08.2018 passed in CWJC No. 14480 of 2018

Order dated 29.08.2018 reads as under:

“1. The present petition has been preferred by  
the petitioner herein for appropriate order /direction to  
remove the encroachment from the public roads lands, the  
particulars or which are given in paragraph 6 of the petition.

2. Heard learned counsel appearing for the



respective parties.

3. At the outset, it is required to be noted that on the application submitted by the petitioner, one case being Case No. 05/17-18 under the provisions of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as “the Act”) is registered, which is pending before the Circle Officer, Hayaghat. However, it is appreciated that in view of the order passed by the Circle Officer, Hayaghat dated 07.08.2018, he has already prejudged the matter and, in fact, has vacated the earlier stay granted. It is, therefore, requested that, in the facts and circumstances of the case, the powers under the Act may be exercised by the District Magistrate, who is also having the powers to consider the proceedings under the Act.

4. Having heard learned counsel for the respective parties and in the facts and circumstances of the case, more particularly the fact that the proceedings under the Act at the instance of the petitioner have already been initiated, we refuse to entertain the present petition in exercise of the power under Section 226 of the Constitution of India.

4.1 However, in the facts and circumstances of the case, the District Magistrate, Darbhanga is hereby directed to transfer the Case No. 05/17-18 to his office and pass an appropriate order on the said application/case after giving opportunity to all the concerned including the petitioner, i.e., original applicant and the alleged encroachers and after following due procedure under the Act, to be completed within a period of 8 weeks from today.

4.2 It goes without saying that, thereafter, if any parties aggrieve by the order that may be passed by the District Magistrate, it might be open for the aggrieved party to take recourse to law and such proceedings should be considered in accordance with law and on merit.

5. With the aforesaid directions, the present



petition is disposed of.”

3. During pendency of the present MJC, remaining encroachment is stated to have been removed on 28.06.2019. Such statement is taken on record.

4. Accordingly, present MJC/contempt proceedings stands dropped.

**(P. B. Bajanthri, J)**

**( Jitendra Kumar, J)**

GAURAV S./-

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