

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1125 of 2023

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Sunil Kumar Son of Ramsharan Singh, Resident of Village- Khorampur, P.S.- Islampur, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, District- Nalanda.
3. The Additional District Magistrate, District- Nalanda.
4. The Sub-Divisional Officer, Block- Islampur, District- Nalanda.
5. The Circle Officer, Block- Islampur, District- Nalanda.
6. The Anchal Amin, Block- Islampur, District- Nalanda.
7. The Station House Officer, P.S.- Islampur, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anil Kumar Singh, Advocate
For the Respondent/s : Mr.Raj Kishore Roy (GP18)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 25-07-2023

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

“(i) For issuance of the appropriate writ, order(s) or directions(s) in the nature of Certiorari for quashing the notice dated 12.01.2023 issued under section 6(2) of the Bihar Public Land Encroachment Act, 1956 by the Circle Officer, Islampur, District- Nalanda in Encroachment Case No.- 01/2022-23 wherein the petitioner along with other persons have been asked to remove the encroachment before 18.01.2023 from the



land bearing Khata No.-75, Khesra No.-176 and 180 situated at Mauza- Khorampur, Thana No.- 40 otherwise the same will be removed on 18.01.2023 on the ground that the petitioner has a double-storeyed house over the said land and living there peacefully for more than 30-35 years and in possession of the said land;”

2. The learned counsel for the respondent State has submitted by referring to the counter affidavit, filed in the present case than an encroachment case bearing Encroachment case no. 01 of 2022-23 was initiated by the Circle officer, Islampur, District-Nalanda, whereafter the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 was passed by the Circle officer, Islampur holding the petitioner and others to be encroachers, whereupon the petitioner had preferred an appeal before the appellate authority bearing Encroachment Appeal Case no. 3 of 2022 and the same has been disposed off by an order dated 10.03.2023, and the matter has been remanded back to the Circle Officer, Islampur for making fresh measurement of the land in question. It is submitted that a fresh measurement has then been made and encroachment has been found to have been made by 05 encroachers including the petitioner.



3. The learned counsel for the petitioner has disputed the aforesaid contention of the learned counsel for the respondent State and has submitted that firstly, the case of the petitioner has not been considered in light of the fact that the petitioner is in possession of the land in question since the year 1941, hence, the applicability of the Act, 1956 itself is under a cloud and secondly, the measurement has also not been done properly, hence, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to challenge the measurement report dated 28.04.2023 as also the order passed by the Circle officer, Islampur, by filing a fresh appeal, however, seeks some protection, in the meantime.

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 fresh appeal before the appellate authority, within a period of four weeks from today, wherein he shall be at liberty to raise not only the issue regarding measurement but the issue regarding him being in possession of the land in question since the year 1941, resulting in him acquiring right, title and interest in the property in question. It is needless to state that in case, appropriate appeal is filed within a period of four weeks from today, the same shall be decided by the appellate authority by



passing a reasoned and a speaking order, within a period of six weeks, thereafter 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	09.08.2023
Transmission Date	NA

