

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11744 of 2017**

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1. Neeta Sharma, Wife of Sri Ram Bihari Sharma,
  2. Shailendra Kumar, Son of Sri Chandraman Sharma,
  3. Nagendra Sharma, Son of Sri Chandraman Sharma,
  4. Nawal Kishore Sharma, Son of Late Indradeo Sharma,  
All residents of Village- Shamshernagar, Police Station- Daudnagar, District-  
Aurangabad.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Department of Revenue  
and Land Reforms, Government of Bihar, Patna.
2. The Collector, Aurangabad.
3. The Superintendent of Police, Aurangabad.
4. The Sub Divisional Officer, Daudnagar, Aurangabad.
5. The Circle Officer, Daudnagar, Aurangabad.
6. The Station House Officer, Daudnagar, Aurangabad.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.J.S. Arora, Sr.Advocate<br>Mr.Kushagra Kush, Advocate |
| For the State        | : | Mr.Raj Kishore Roy -GP18                                 |

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL ORDER**

2      18-04-2023      The present writ petition has been filed seeking the  
following relief:-

*"i). For commanding the respondent authorities to  
carry out the order dated 28.08.2016 passed in  
Land Encroachment Case No. 5 of 2013-14 by the  
Circle Officer, Daudnagar, Aurangabad, whereby  
order for removal of encroachment from the land in  
question being an Ahar has been passed, so that  
the said proceeding may come to it's logical end.*



*ii). Also for commanding the respondents to remove the encroachment from the land in question, so as to enable the petitioner and other co-villagers to use the said Ahar."*

At the outset, the learned senior counsel for the petitioner has submitted that an encroachment proceeding vide Encroachment Case No.05 of 2013-14, was initiated by the Circle Officer, Daudnagar for removal of the encroachment from the land in question and after complying with the provisions contained in the Bihar Public Land Encroachment Act, 1956, the Circle Officer, Daudnagar has passed the final order on 28.08.2016, directing for removal of the encroachment in question, however, it is the averment of the respondent-State that since one Manorma Devi has filed a title suit bearing Title Suit No.424 of 2014, before the learned court of Sub-Judge-I, Aurangabad, the respondents have restrained themselves, to which the learned senior counsel for the petitioner has submitted that in case no interim protection has been granted to the said Manorma Devi, in the pending suit, the respondent-State is not precluded from removing the encroachment in question.

At this juncture, the learned senior counsel for the petitioner has further pointed out that Manorma Devi is only one of the encroachers, hence, there being no suit proceedings



pending qua the remaining encroachers, the encroachment in question is required to be removed, forthwith.

Having regard to the facts and circumstances of the case, I deem it fit and proper to direct the Circle Officer, Daudnagar to examine as to whether any interim order has been granted in favour of the aforesaid Manorma Devi and in case no interim order exists in favour of the said Manorma Devi, he shall proceed ahead, in accordance with law. The Circle Officer, Daudnagar is further directed to take appropriate steps for removal of the encroachment in question, in accordance with law, in case the other encroachers have not taken recourse to suit proceedings and in case no interim order is existing qua them, passed by a competent court of law.

The writ petition stands disposed off with the aforesaid directions.

**(Mohit Kumar Shah, J)**

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