

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18740 of 2017

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Haseena Khatoon Wife of Mohsin, Resident of Village- Najra, P.S.- Benipatti,
District- Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary Land Reforms and Department of Revenue, Govt. of Bihar, Patna.
2. The Collector, Madhubani.
3. The Sub-Divisional Officer Civil Madhubani.
4. The Circle Officer, Benipatti, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gagan Deo Yadav
For the Respondent/s : Mr.S.C. Yadav - Gp15

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 25-04-2023 The present writ petition has been filed seeking the
following relief:-

“1. That this is an application for issuance of an appropriate writ(s), order(s), direction(s) for quashing the order/notice dated 28.11.2017, passed in Encroachment Case No. 01/2017-18 by the Circle Officer, Benipatti whereby and whereunder the petitioner has been directed to remove the encroachment from the plot no. 868, 869 by 13.12.2017 and to grant any other consequential benefits to the petitioner for which the petitioner may entitle in accordance with the law.”

The Respondents have filed a counter affidavit,



wherein it has been submitted that though the Circle Officer, Benipatti, Madhubani, has issued a notice under Section 6(2) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act, 1956'), in connection with Encroachment Case No. 1 of 2017-18, however, no final order has been passed under Section 6(1) of the Act, 1956.

In view of the aforesaid, this Court finds that since notice under Section 6(2) of the Act, 1956, cannot be issued without passing the final order under Section 6(1) of the Act, 1956, the said notice dated 28.11.2017 is illegal, hence, is quashed.

The Respondents are granted liberty to take recourse to the due process of law and may pass appropriate orders, after hearing the petitioner and the other affected parties, as per the procedure prescribed under the Act, 1956.

The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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