

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14811 of 2016

1. Kamta Singh son of Late Ramdeo Singh
2. Sidhnath Singh son of Late Ramdeo Singh
3. Rangila Singh son of Late Ramdeo Singh All residents of village - Yamunapur, P.O. - Alawalpur, Police Station - Gaurichak, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-Collector, Patna.
3. The Sub-Divisional Officer, Patna City, Patna.
4. The Circle Officer, Fatuha, Patna.
5. The Officer-in-charge, Gaurichak Police Station, Patna.
6. Ram Padarath Singh son of Tabeshwar Singh R/o village - Yamunapur, P.O. - Alawalpur, P.S. - Gaurichak, District - Patna.
7. Medhan Singh son of Shri Ram Padarath Singh R/o village - Yamunapur, P.O. - Alawalpur, P.S. - Gaurichak, District - Patna.
8. Sujiendra Singh son of Late Ratan Singh R/o village - Yamunapur, P.O. - Alawalpur, P.S. - Gaurichak, District - Patna.
9. Bal Govind Singh son of Late Ratan Singh R/o village - Yamunapur, P.O. - Alawalpur, P.S. - Gaurichak, District - Patna.
10. Mithilesh Singh son of Late Ramta Singh R/o village - Yamunapur, P.O. - Alawalpur, P.S. - Gaurichak, District - Patna.
11. Dunni Singh son of Late Ramta Singh R/o village - Yamunapur, P.O. - Alawalpur, P.S. - Gaurichak, District - Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Suresh Kumar,Advocate Mr.Arbind Kumar,Advocate
For the Respondent/s	:	Mr.Md.Khurshid Alam,AAG-12 Mr.Ebadur Rahman Shakeb,AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 05-04-2023 The present case depicts a bizarre
situation, wherein two encroachment proceedings
have been initiated against the petitioners, one



bearing Encroachment Case No.13 of 2015-16, and the other bearing Encroachment Case No.07 of 2020-21.

Though, a counter affidavit has been filed in the present case, annexing the entire order sheet of Encroachment Case No. 13 of 2015-16, initiated by the Circle Officer, Fatuha, however this Court finds that no final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 has been passed and instead a new encroachment case bearing Encroachment Case No. 7 of 2020-21, has been initiated by the Circle Officer, Fatuha, Patna which depicts that the Circle Officer, Fatuha, Patna has acted contrary to the prevailing law for oblique motives, hence the District Magistrate, Patna is directed to conduct an enquiry into the conduct of the Circle Officer, Fatuha, Patna and take appropriate action, forthwith with intimation to the Registrar General of this Court, within a period of four weeks from today.

Now, coming to the merits of the case, this Court finds that the earlier encroachment



proceeding, initiated by the Circle Officer, Fatuha vide Encroachment Case No. 13 of 2015-16 was never concluded, though it is the contention of the Circle Officer, Fatuha, who has filed a counter affidavit in the present case that the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 has been passed on 20.07.2016, however a bare perusal of the said order dated 20.07.2016, would show that he had merely requisitioned police force for removal of encroachment in question, without passing the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956, against the petitioners. The said order dated 20.07.2016, along with the previous order dated 13.06.2016 are reproduced herein below:-

13-06-16 अभिलेख उपस्थापित। अनुमण्डल लोक शिकायत निवारण, पटना सिटी के | ज्ञापांक-225 दिनांक 08.07.16 से परिवाद पत्र द्वारा सुजिन्दर सिंह, सा०-जमुनापुर, पो०- अलावलपुर, थाना-गौरीचक द्वारा समर्पित आवेदन पत्र पर अनुमण्डलीय लोक शिकायत निवारण पदाधिकारी, पटना सिटी द्वारा दिनांक 16.07.16 द्वारा समर्पित आवेदन पत्र पर पत्र के अनुपालन में दिनांक 30.06.16 को प्रधान लिपिक अधोहस्ताक्षरी के



अनुपस्थिति में लोक शिकायत निवारण पदाधिकारी, पटना सिटी के यहाँ उपस्थित होने हेतु पत्र निर्गत किया जाय। अभिलेख दिनांक 20/07 को उपस्थापित करें।

लेखापित एवं संशोधित ।

ह 0/-

अंचलाधिकारी फतुहा ।

ह 0/-

अंचलाधिकारी फतुहां।

20.7.2016-अभिलेख उपस्थापित। मौजा-चमरडीह, थाना सं0-65, खाता सं0-271, खेसरा सं0-411, कुल रकवा 0.60 डी० जिसपर आंशिक अतिक्रमण है को अतिक्रमण मुक्त करने हेतु सशस्त्र बल एवं पुलिस पदाधिकारी की मांग हेतु पत्र निर्गत किया जाय। अभिलेख दिनांक 01/08/16 को उपस्थापित करें।

लेखापित एवं संशोधित ।

ह 0/-

अंचलाधिकारी फतुहा ।

ह 0/-

अंचलाधिकारी फतुहा

In view of the aforesaid, this Court finds that the process adopted by the Circle Officer, Fatuha is illegal, hence the encroachment proceeding initiated vide Encroachment Case No.13 of 2015-16 is quashed. This Court further finds that during the subsistence of the earlier encroachment proceeding, second encroachment



proceeding, with regard to the same piece of land, could not have been initiated by the Circle Officer, Fatuha which has been initiated vide Encroachment Case No. 7 of 2020-21, hence the said encroachment proceeding is also illegal, thus is set aside, however liberty is granted to the respondents to proceed afresh, in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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