

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.5016 of 2018

In
Civil Writ Jurisdiction Case No.10477 of 2018

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Bharat Mahto s/o Late Jagdish Mahto Vill.- Matihani, P.s.- Mohanpur, distt.-
Gaya

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sri Abhishekh Singh the District Magistrate, Gaya
3. Sri Upendra Pandit the Sub Divisional Officer, Sherghati, Ps.- Sherghati,
Distt.- Gaya
4. Md. Numan Ahmad the Circle Officer, Mohanpur, P.s.- Mohanpur, Distt.-
Gaya

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ravindra Kr Sinha No.2
For the Opposite Party/s : Mr.Md. Khurshid Alam, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 27-07-2023 Heard the parties

The present contempt petition has been preferred for compliance of the order 21.06.2018 passed in CWJC No.10477 of 2018 by which the Circle Officer, Gaya (the respondent no. 4) was directed to examine the revenue records, make a spot verification and if it is found that it is a public land encroached to initiate proceeding and pass an appropriate order after hearing the parties.

The case of the state is that pursuant thereto the Circle Officer Mohanpur initiated proceedings and held those occupying the land as encroacher. It was challenged in appeal



before the Collector, Gaya who remanded it back to the Circle Officer, Mohanpur whereafter the order dated 05.08.2019 was passed in which it has been stated by the Circle Officer, Mohanpur that there was a title suit relating to the land vide Title Suit No. 39 of 2019 in which those occupying the land has been declared '*Rayat*' of the said land.

In that view of the matter, the Circle Officer, Mohanpur held that the said land does not come within the category of the Government land and as such no encroachment proceeding can be proceeded against them which was accordingly closed.

Learned counsel for the State submits that this finding of the Circle Officer, Mohanpur is contrary to their earlier stand in the counter affidavit filed in **CWJC No. 20951 of 2014 (Lara Prasad Vs. The State of Bihar & Ors.)** which was filed in 2015 stating that the land in question is a government land. He has brought on record the said counter affidavit by way of Annexure-7.

Learned counsel for the petitioner submits that the same view was taken by the Circle Officer, Mohanpur in his earlier order but after the same was remanded by the Collector, Gaya, on the basis of the document, the present order has been



passed.

In that view of the matter, once the Circle Officer, Mohanpur has come to a finding without commenting on it, it would be appropriate that the petitioner challenge the same before the appropriate Court, if so advised.

The MJC No. 5016 of 2018 stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

Jagdish/Jyoti/-

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