

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4776 of 2023

Ashok Kumar, son of Sri Brajnandan Sharma, Resident of Village and Post-Nadwan, P.S.- Dhanarua, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Commissioner, Patna Division, Patna.
4. The District Magistrate, Patna.
5. The Sub- Divisional Officer, Masaurahi, District- Patna.
6. The Circle Officer, Dhanarua, District- Patna.
7. The Director General of Police, Government of Bihar, Patna.
8. The Superintendent of Police (Rural), Patna.
9. The Officer in Charge, Dhanarua P.S., District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhay Shankar Singh, Adv
For the Respondent/s	:	Mr. Sunil Kumar Mandal (SC 3)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 18-04-2023

The writ petition has been filed as a public interest litigation seeking issuance of directions to the respondents for removing the unauthorized structure and free the public land from encroachment.

2. The petitioner has disclosed the details of the land, which is irrelevant having regard to the nature of order that we propose to pass in the instant proceedings.

3. The Bihar Public Land Encroachment Act, 1956



(hereinafter referred to as “the Act”) provides remedy for removal of encroachment from public lands. Section 4 of the Act allows an opportunity to the noticee (petitioner) to raise any defense which they could have raised if they were defendants in a properly framed suit for removal of encroachment. The Act also provides an opportunity of hearing under Section 5; as well as the consequences of non-appearance in the proceedings.

4. It is only after observing the above procedure that final order is to be passed by the Collector under Section 6 of the Act, either dropping the proceedings or passing orders for ensuring removal of encroachment, damages or otherwise. The order of the Collector for removing encroachment is also subject to appeal under Section 11 of the Act. Section 13 of the Act also provides an opportunity of review in case of any mistake or error in the course of any proceedings.

5. The issue raised by the petitioner is essentially an issue falling within the scope and ambit of the Act. The writ petition, by way of a PIL, therefore, in the opinion of the Court, is misconceived. If the instant case were to be entertained as a PIL, then all issues of encroachment would be required to be dealt with by this Court as a PIL.

6. We find that no public interest concerning any



marginalised/oppressed, or inarticulate section of society has been espoused in the instant writ proceedings, so as to allow the petitioner to bypass the statutory remedy whereby and whereunder the alleged encroachers of the public lands would be dealt with in a fair procedure, and leave it open for the petitioner to pursue remedy in accordance with law.

7. The writ petition is dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.04.2023
Transmission Date	NA

