

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7283 of 2023

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Rakesh Kumar, Son of Surendra Prasad Singh, Resident of Village-Miyan Bigha, Kahuara, P.S.-Nardiganj, District-Nawada (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reform, Govt. of Bihar, Patna.
2. The Collector, Nawada.
3. The Additional Collector, Nawada.
4. The Sub-Divisional Officer, Nawada (Sadar), Nawada.
5. The Circle Officer, Nardiganj, Nawada.
6. Ram Sagar Singh Son of Late Mahavir Singh Resident of Village-Miyan Bigha, P.S.-Nardiganj, District-Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Md. Nadim Seraj (GP-5)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 16-05-2023

1. None appears on behalf of the petitioner.
2. By way of the instant writ proceedings filed as a Public Interest Litigation (PIL), petitioner is seeking directions for removal of encroachments.
3. 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.
4. 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.

5. 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.

6. 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.

7. We find that no public interest concerning any marginalised/weaker/inarticulate section of society having 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.

8. In the instant case an additional fact, based on submission of learned State Counsel in today's proceedings, is that proceedings under the Act have already been initiated and Encroachment Case No. 07/2022-23 has been instituted. Referring to the Annexure-5 of the writ petition, learned State counsel submits that notices have also been issued in the encroachment case.

9. We do not want to comment any further on merits of the petitioner's claim, as the issue is required to be considered in the encroachment case proceedings by the appropriate authority in accordance with law.

10. The writ petition is dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.05.2023
Transmission Date	NA

