

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7592 of 2023

Man Mohan Singh, Son of Late Jagniwas Prasad Singh, Resident of Kharhari Kothi, Nawada Road, Near Mahavir Mandir, Lakhibag More, P.S.- Manpur, Block- Manpur, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Environment and Forest Department, Government of Bihar, Patna.
3. The Principal Secretary, Revenue and Land Reforms, Government of Bihar, Patna.
4. The Director, Land Acquisition Department, Government of Bihar, Patna.
5. The Conservator of Forest, Gaya.
6. The District Magistrate, Gaya.
7. The District Land Acquisition Officer, Gaya.
8. The Divisional Forest Officer, Gaya Forest Division, Gaya.
9. The Circle Officer, Manpur, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate
For the Respondent/s : Mr. Raj Kishore Roy, GP-18

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 05-10-2023

Heard Mr. Krishna Kant Singh, learned counsel appearing on behalf of the petitioner and Mr. Raj Kishore Roy, learned GP-18.

2. The petitioner has preferred the present writ application seeking quashing of the notice, as contained in letter no. 1369 dated 20.03.2023, issued under the signature of the Divisional Forest Officer, Forest Division, Gaya, whereby the petitioner and others have been given notice under Section 3 of



the Bihar Public Land Encroachment Act, 1956 by virtue of the power conferred under Section 66A of the Indian Forest Act. It is further submitted that during the pendency of the present writ application, the respondent no.8 has passed the final order on 01.08.2023 and thus the same has also been assailed in filing interlocutory application, bearing I.A. No. 1 of 2023. He further prays to hold and declare the initiation of encroachment proceeding under Section 3 of the Bihar Public Land Encroachment Act, 1956 by the Divisional Forest Officer, Forest Division, Gaya, by virtue of the power conferred under Section 66A of the Indian Forest Act, apertaining to the land bearing Plot no. 216, area 18 acres, situated at village- Kharhari, P.S.- Mufassil, District- Gaya illegal, as the same has been initiated without examining the status of the petitioners, who are the rightful owner of the land, in question.

3. While assailing the impugned order, it is submitted on behalf of the petitioner that the land, in question, under notice was recorded in the name of Chandrika Prasad Singh, son of Babu Raj Karan Singh, who had settled the same to his wife Brahmjyot Kuar and the petitioner is the grandson of late Chandrika Prasad Singh. He further submits that at the time of abolition of Jamabandi, the father of the petitioner and other



descendant came in peaceful possession of the land, in question, and later on Jamabandi was also created in favour of Janardan Prasad Singh, one of the son of Chandrika Prasad Singh. He next submitted that with respect to the same land, a dispute has arisen, for which a case under Section 106 of the Bihar Tenancy Act (hereinafter referred to as 'the B.T. Act') was also instituted bearing Case No. 68/79 and 69/79, which were also decided in favour of the petitioner vide order dated 16.08.2002. On being aggrieved, the Forest Department filed Revision Case No. 863 of 2002, which came to be dismissed vide order dated 27.06.2008 and thus the order passed under Section 106 of the B.T. Act has become final between the petitioner and the Forest Department.

4. On this backdrop, learned counsel for the petitioner submits that despite having valid right, title, interest and possession over the land, in question, the respondent no.8 has initiated a proceeding under Section 3 of the Bihar Public Land Encroachment Act, 1956, which is per se illegal and without jurisdiction as the same has been initiated without verification of the status of the petitioner.

5. At this stage, learned counsel for the State submitted that since the final order has already been passed,



amenable to statutory appeal, thus the petitioner has efficacious alternative remedy under Section 11 of the Bihar Public Land Encroachment Act, 1956 before the Collector and, as such, the petitioner may be directed to avail the remedy, as provided under the law.

6. Considering the materials available on record and the submissions advanced on behalf of the parties, as also taking note of the principle of exhaustion of alternative remedy, which mandate the petitioner to avail of other statutory remedies before seeking a remedy under Article 226 of the Constitution of India, the present writ application stands disposed of with liberty to the petitioner to assail the order dated 01.08.2023 by preferring an appropriate appeal before the respondent no.6 (the District Magistrate, Gaya) preferably within a period of two weeks from today.

7. It is made clear that the petitioner shall also be at liberty to produce all the documents showing his ownership over the land before the respondent no.6, who would be under obligation to consider the same and pass necessary reasoned and speaking order preferably within a period of eight weeks from the date of filing of appeal.

8. Till final order in appeal, there shall be no



coercive action against the petitioner in furtherance of order
dated 01.08.2023.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.10.2023
Transmission Date	NA

