

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9775 of 2023

Prabhakar Kumar S/o Ramashray Raut @ Ramashray Rawat @ Ramashray Chaudhary, Resident of Village-Sapahi, P.O. and P.S.-Turkaulia, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Departments, Govt. of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Departments, Govt. of Bihar, Patna.
3. The Collector-cum-District Magistrate, East Champaran at Motihari.
4. The Sub Divisional Officer-cum-Sub Divisional Magistrate, Motihari Sadar, Motihari, District-East Champaran.
5. The Deputy Collector, Land Reforms, Motihari Sadar, Motihari, District-East Champaran.
6. The Circle Officer, Turkaulia Block, Turkaulia, District-East Champaran.
7. Ram Naresh Singh, s/o Late Satya Narayan Singh, Resident of Village-Sapahi, P.O. and P.S.-Turkaulia, District-East Champaran.
8. Yashoda Devi, W/o Ram Naresh Singh, Resident of Village-Sapahi, P.O. and P.S.-Turkaulia, District-East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Adv.
For the Respondent/s : Mr.Raj Kishore Roy (GP-18)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 21-08-2023 The present writ petition has been filed seeking the following reliefs:-

“1.A. For issuance of a writ in the nature of Certiorari or any other appropriate writ, order/s, to quash the notice dated 23.06.2023 contained in Memo No. 824 issued by the respondent no. 6 in connection with Encroachment Case No. 13/2022-23 to the extent the same relates to directing the petitioner to remove his residential house from a



piece of land appertaining to Khata No. 7, Plot No.1266, falling within Sapahi village of Turkauliya Block of East Champaran District latest by 01.07.2023 failing which the same shall be removed by force on 03.07.2023 (Annexure- 13).

B. For issuance of a writ in the nature of mandamus or any other appropriate writ, order/s, direction commanding the respondents for the followings:-

I. To treat the Annexure-13 to the petition to be nullity and non-est in the eye of law.

II. To hold that the impugned notices have been issued without following the procedures prescribed under the Bihar Public Land Encroachment Act.

III. To hold that the impugned proceeding is barred by the Principle of res-judicata in as much as in a prior proceeding initiated by the predecessor of the respondent no. 6, the appellate authority gave direction for settlement of the land in question in favour of the father of the petitioner and in the settlement proceeding, the respondent no. 4 has already recommended for settlement of the land in question in favour of father of the petitioner.”

At the outset, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to challenge the order dated 03.04.2023, passed by the Circle Officer-Turkaulia, District-East Champaran, in connection with Encroachment Case No.13 of 2022-23 by filing appropriate appeal.



At this juncture, the learned counsel for the petitioner submits that the said encroachment proceeding had been carried out in the name of the father of the petitioner, who has since died, hence the petitioner be granted liberty to take recourse to the due process of law for assailing the aforesaid order dated 03.04.2023. Liberty so sought is granted.

It is needless to state that for a period of four weeks from today, status quo, existing as on today, qua the land/house of the petitioner in question, shall be maintained in order to enable the petitioner to file appropriate appeal, along with a petition for grant of interim stay.

The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

sonal/-

U			
---	--	--	--

