

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10185 of 2023

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Birendra Kumar Sah son of Rajnarayan Sah, R/o Village-Daraundha, P.S.-
Daraundha, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. Additional Chief Secretary, Department of Revenue and Land Reform,
Government of Bihar, Patna.
3. District Magistrate, Siwan.
4. Sub-Divisional Officer, Maharajganj, Siwan.
5. Land Reform Deputy Collector, Maharajganj, Siwan.
6. Circle Officer Daraundha, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bal Krishna Mishra
For the Respondent/s : Mr.Raj Kishore Roy (Gp 18)

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 02-12-2023 Counter affidavit filed on behalf of the State is taken
on record.

2. I have heard learned counsel for the petitioner and
learned counsel appearing on behalf of the State.

3. Pursuant to the last order dated 30.11.2023, the
Circle Officer, Daraundha, Siwan has appeared and he has
submitted that because of the orders passed in M.J.C. No. 3097
of 2019 by a Division Bench of this Court, the encroachment
was removed on 21.06.2023 i.e., before the expiry of thirty days
allowed for preferring appeal.

4. The Circle Officer, Daraundha, Siwan submits that



in view of the coercive orders passed by the Division Bench, he had no option but to remove the encroachment.

5. In these circumstances, I am of the view that the Circle Officer, Daraundha, Siwan, has not acted malafidely.

6. This Court while hearing matters under Bihar Land Encroachment Act has noticed that once the final order passed under the Bihar Public Land Encroachment Act, 1956, (hereinafter referred to as the 'Act'), no notice under Section 6(2) of the Act is given to the encroacher, but the order passed against him is not annexed with the notice and it is argued by the learned counsels appearing for the State in the matter that it is not the requirement of law to serve a copy of the final order upon the encroacher with the notice under Section 6(2) of the Act.

7. This non-communication of the final order to the encroachers creates problem to them as even after passing of 30 days, they are not able to procure copy of the final order passed by the Circle Officer, Daraundha, Siwan.

8. This Court is of the view that the matter be considered by the Government and the Additional Chief Secretary, Department of Revenue and Land Reforms, Government of Bihar, is directed to consider the feasibility of amendment in



the Act or issue a guideline to the Circle Officers so that they can send a copy of the final order along with the notice under Sections 6(2) of the Act.

9. A copy of this order be sent to the the Additional Chief Secretary, Department of Revenue and Land Reforms, Government of Bihar through FAX.

10. In the meantime, learned counsel for the petitioner is directed to challenge the order of the Circle Officer, Daraundha, Siwan before the Appellate Authority by filing an appeal within 30 days from today. If such, an appeal is filed within 30 days, the same shall be considered and disposed of on merits as early as possible preferably within three months from the date of its filing and limitation shall not come in the way of consideration of the appeal.

11. With the aforesaid observations and directions, this application is disposed of.

12. The possession of the petitioner shall not be disturbed during the pendency of the appeal. Since the case has been disposed of, the Circle Officer, Daraundha, Siwan, is not required to be present.

(Sandeep Kumar, J)

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