

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14470 of 2022

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Raja Mahto Son of Late Bhikharm Mahto, resident of Village- Bathana, P.S.-
Piprakothi, Block- Kotwa, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate-cum- Collector, East Champaran.
2. The Circle Officer, Kotwa, District- East Champaran.
3. Nagina Mahto, Son of Satahu Mahto, resident of Village- Bathana, P.S.-
Piprakothi, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh, Advocate
For the Respondent/s : Mr.Sajid Salim Khan (SC 25)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 04-07-2023

1. The present petition has been filed seeking the following relief :-

“ (i) For issuance of a writ in the nature of mandamus directing the concerned respondent authorities to not disturb the petitioner from the land pertaining to Khata No.120, Khesra No.804 over which the residential house of the petitioner and other brothers are situated and the respondent authorities have issued the notice to remove the same under the garb of Bihar Public Land Encroachment Act, since any action under the Bihar Public Land Encroachment Act is not maintainable?



(ii) To hold that the proceeding under the Bihar Public Land Encroachment Act is not maintainable and any order passed under the said Act is illegal, void ab-initio and is not enforceable in the eye of law.

(iii) To further set aside the notice dated 18.08.2022 issued by the Circle Officer, East Champaran for removing the encroachment by 05.09.2022 stating that as per the private respondent the petitioner and others who have constructed house have obstructed the way out of the private respondent which is not the fact.

(iv) For further to direct the concerned authorities not to demolish residential house of the petitioner.”

2. The learned counsel for the respondent- State has pointed out that the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 has already been passed by the Circle Officer, Kotwa, District- East Champaran on 18.11.2019 in connection with Encroachment case no. 11 of 2019-20 and the same has also been challenged by the petitioner by filing an appeal.

3. At this juncture, the learned counsel for the petitioner submits that the appellate authority i.e. the Collector, East Champaran be directed to consider the appeal of the



petitioner on merits and not reject the appeal merely on the ground of limitation.

4. Having regard to the facts and circumstances of the case, I deem it fit and appropriate to dispose off the present writ petition with a direction to the Collector, East Champaran to consider the appeal filed by the petitioner on merits, without being impeded by the issue of limitation and pass a reasoned and a speaking order, in accordance with law, within a period of eight weeks from today and till then, *status quo* existing as on today *qua* the land/ house of the petitioner in question, shall be maintained.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.07.2023
Transmission Date	NA

