

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15616 of 2022

=====

Gopal Prasad Varma @ Gopal Prasad Shonar, Son of Late Ramnath Sonar @
Ramnath Varma, Resident of Village- Darauli, P.O. + P.S.,- Darauli, District-
Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Commissioner, Saran Division, Saran.
3. The District Magistrate, Siwan.
4. The Additional Collector, Siwan.
5. The Circle Officer, Darauli, District- Siwan.
6. The Circle Inspector, Darauli, District- Siwan.
7. Satya Prakash Srivastav, Son of Shri Krishna Prasad Resident of Village- Darauli, P.S.- Darauli, District- Siwan.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar, Advocate.
For the Respondent/s : Mr.Sajid Salim Khan, SC-25.

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 30-01-2023 Heard the parties.

2. This court vide order dated 09.01.2023 passed the
following order:

“Heard Mr. Ranjeet Kumar, learned counsel
appearing on behalf of the petitioner and Mr. Sajid Salim
Kham, learned SC-25 assisted by Mr. Arit Damla Siddiqui,
learned AC to SC- 25 for the State.

Reply to the counter affidavit filed on behalf of
the petitioner is kept on record.

Learned counsel for the petitioner submitted
that before filing of the present writ petition, a private
respondent namely, Satya Prakash Srivastav had filed writ
petition bearing C.W.J.C. No. 18152 of 2019 praying
therein to remove encroachment from land in question. The
said writ petition was disposed of as withdrawn with liberty



to the petitioner to avail remedy under the provisions of Bihar Public Land Encroachment Act, 1956 vide order dated 03.09.2019. The respondent No.7 namely Satya Prakash Srivastav filed another writ application bearing C.W.J.C. No. 6501 of 2020, which was disposed of vide order dated 26.07.2022 with direction to pass final order in Encroachment Case No. 06 of 2018-19. The respondent No.7, Satya Prakash Srivastav again filed C.W.J.C. No. 6501 of 2020, which was disposed of vide order dated 16.08.2022 and disposed of taking into consideration that the encroachment from the Public Land has already been removed. He further submitted that during the pendency of the said writ petition, a day before the passing of the order dated 26.07.2022 in C.W.J.C. No. 6501 of 2020, a notice was served to the petitioner contained in Letter No. 671, dated 25.07.2022 for removing encroachment from Plot No. 745 and 746 appertaining to Khata No. 320. Learned counsel for the petitioner further submitted that in most arbitrary and illegal manner, his house was demolished on 10.08.2022 by the respondent even without issuing notice under the Act.

Mr. Sajid Salim Khan, learned SC25 submitted that today he has been served a copy of the rejoinder and prays for two weeks time to seek instruction to file supplementary counter affidavit, if required.

Put up this case on 30.01.2023.”

3. On perusal of Para-7 of the rejoinder, it appears that a measurement was conducted with respect to the land in question and a report was submitted by the Anchal Amin on 20.05.2019 giving the details that 1250 square feet of land pertaining to Survey Plot No. 745 has been encroached. The petitioner has brought on record the entire order sheets with respect to the Encroachment Case No. 6 of 2017-18 and has submitted that from perusal of the entire order sheets without mentioning the details about such report on which he has acted



to remove the structure on the Survey Plot No. 753, Khata No. 318 is not sustainable.

4. The grievance of the petitioner is that the authority has admitted in Para-6 that encroachment was required to be removed from Survey Plot Nos. 745 and 746, Khata No. 320 and not from Plot No. 753, Khata No. 318. The petitioner is apprehensive of the fact that a thorough measurement must be conducted by any Amin who was/is not posted at Circle Office, Darauli at any point of time.

5. The District Magistrate, Siwan is directed to appoint survey Amin who is / was not posted at Darauli Circle at any point of time to conduct measurement of Khatyani land of the petitioner appertaining to Khat No. 318, Plot No. 753 and if it is found that the said land is khatyani land of the petitioner he must seek explanation from the Circle Officer, Darauli as to why he has illegally demolished the structure which was constructed by the petitioner on his khatyani land whereas encroachment proceeding relates to Survey Plot Nos. 745 and 746, Khata No. 320. The measurement must be carried out in front of the petitioner after prior notice to him regarding date and time. The Collector if finds that the Circle Officer has exceeded his jurisdiction in that case, a criminal case as well as



disciplinary action must be taken against the Circle Officer,
Circle Inspector, Amin and Karmchari of Darauli Circle.

6. Accordingly, the writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

U			
---	--	--	--

